DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1301, 1303, 1304, 1305, 1306, and 1308

RIN 0970–AB55

Head Start Program

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Final rule.

SUMMARY: The Administration for Children and Families is issuing this final rule to implement the statutory provisions for establishing Program Performance Standards for Early Head Start grantees and Head Start grantee and delegate agencies providing services to eligible children from birth to five years and their families as well as pregnant women, and for taking corrective actions when Early Head Start or Head Start agencies fail to meet such standards.

EFFECTIVE DATES: The effective date of these requirements is January 1, 1998. Nothing in this Part prohibits grantee or delegate agencies from voluntarily complying with these regulations prior to the effective date. The information requirements in §§ 1304.20, 22, 23, 40, 50, 51, 55 and 60 in the rule shall go into effect on the latter of the date on which they are approved by the Office of Management and Budget or January 1, 1998. A document will be published in the Federal Register announcing the approval date of the information requirements.

FOR FURTHER INFORMATION CONTACT: E. Dollie Wolverton, Head Start Bureau, 202/205–8418.

SUPPLEMENTARY INFORMATION:

I. Summary

The Head Start program is authorized under the Head Start Act (the Act), as amended (42 U.S.C. 9801 *et seq.*). Founded in 1965, the program currently offers comprehensive services, including high quality early childhood education, nutrition, health, and social services, along with a strong parent involvement focus, to low-income children nationwide. The overall goal of the program is to bring about a greater degree of social competence in preschool children from low-income families. Social competence refers to the child's everyday effectiveness in dealing with both his or her present environment and later responsibilities in school and life. It takes into account the interrelatedness of cognitive, intellectual, and social development; physical and mental health; and nutritional needs.

The Program Performance Standards have played a central role in the Head Start program since the 1970s. They provide a standard definition of quality services for the 2,112 community-based organizations nationwide that administer Head Start as grantee or delegate agencies; serve as a training guide for staff and parents on the key elements of quality; articulate a vision of service delivery to young children and families that has served as a catalyst for program development and professional education and training in the preschool field; and provide the regulatory structure for the monitoring and enforcement of quality services in Head Start. Thus, their importance to the Head Start program and to preschool education generally goes far beyond the typical role of Federal regulations.

The authority for this final rule is sections 641A(a) and (d), 644(a) and (c), and 645A(h)(2) of the Head Start Act, as amended (42 U.S.C. 9801 *et seq.*). More specifically, the purpose of this final rule, the first wide-ranging revision of the Program Performance Standards in over 20 years, is to carry out the language in the 1994 amendments to the Head Start Act providing for an update of the Head Start Program Performance Standards.

Key provisions in the 1994 amendments require a review of the performance standards in order to bring them up to date, cover new topics, and include services to low-income pregnant women and families with infants and toddlers. In particular:

- The new section 641A provides that the Secretary must establish, by regulation, performance standards covering: (1) A range of services for children and families including health, education, parental involvement, nutritional, and social services as well as transition activities; (2) financial management and administration; and (3) facilities. Subparagraph (a)(3)(C) of the new section provides that the Secretary must review and revise, as necessary, the performance standards in effect under prior law.
- The amendments further provide that any revisions should not result in an elimination or reduction of requirements regarding the scope or types of health, education, parental involvement, nutritional, social, or other services to a level below that of the requirements in effect on November 2, 1978.
- Section 641A(d) prescribes procedures for corrective actions or termination to be taken with agencies which fail to meet the standards described in subsection (a).
- Section 645A(h)(2) requires that the Secretary develop program guidelines for Early Head Start, the newly authorized program for low-income pregnant women and families with infants and toddlers, and to publish performance standards for such programs.

II. The Head Start Program

The Head Start program served approximately 751,000 low-income children and families in fiscal year 1995 through a network of 2,112 grantee and delegate agencies. (Delegate agencies have approved written agreements with grantees to operate the program.) Grantee agencies are funded through a direct Federal-to-local relationship, and include a wide range of local agencies: Community Action Agencies, nonprofit agencies, local governments, Tribal governments, and school districts, among others. About 95 percent of the children in Head Start programs are from low-income families (below the Federal poverty line); about 13 percent of the children have disabilities; and about 90 percent of the children served are 3 or 4 years old. As described below, the 1994 Head Start amendments created a new initiative within Head Start to expand and focus on services to low-income pregnant women and families with infants and toddlers.

Key principles of Head Start since its inception in 1965, and reaffirmed most recently through a thorough review by the bipartisan Advisory Committee on Head Start Quality and Expansion, include the following:

- *Comprehensive Services.* To develop fully and to achieve social competence, children and their families need a comprehensive, inter-disciplinary approach to services including education, health, nutrition, social services, and parent involvement. The range of services available must also be responsive and appropriate to each child and family's unique developmental, ethnic, cultural, and linguistic experience and heritage.
- *Parent Involvement and Family Focus.* The Head Start program is family centered and is designed to foster the parent's role as the principal influence on the child's development and as the child's primary educator, nurturer, and advocate. Local Head Start programs work in close partnerships with parents to develop and utilize parents' individual strengths in order to successfully meet personal and family

objectives. In addition, parents are encouraged to become involved in all aspects of Head Start, including direct involvement in policy and program decisions that respond to their interests and needs.

• *Community Partnerships and Community-Based Services.* Head Start programs are intended to be community-based, with different specific models of service provision flowing out of the differing needs of differing communities. In addition, the most effective Head Start programs have always been, in the words of the Advisory Committee on Head Start Quality and Expansion, ''central community institutions'' for low-income families, building linkages and partnerships with other service providers and leaders in the community.

III. Legislative and Programmatic History

In May 1994, the President signed into law the Head Start Reauthorization Act of 1994. This legislation, enacted with bipartisan sponsorship and support, amended the Head Start Act to extend the program authorization period through fiscal year 1998.

It also made a number of changes to ensure that all children and families enrolled in Head Start are offered high quality services that are responsive to their needs. The legislation built on the vision and recommendations contained in *Creating A 21st Century Head Start,* the report of the Advisory Committee on Head Start Quality and Expansion, which was issued in December 1993.

The Secretary formed the Advisory Committee in June 1993 to look at Head Start quality and program expansion issues. The Committee worked for six months before issuing its report. The report included numerous recommendations centered around:

• Striving for excellence in staffing, management, oversight, facilities, and research;

• Expanding to better meet the needs of children and families; and

• Forging new partnerships with communities, schools, the private sector and other national initiatives.

In its report, the Advisory Committee reaffirmed the role and value of the existing Head Start Program Performance Standards. However, it also recommended that the standards be reviewed and revised to reflect the changing nature of the Head Start population, the evolution of best practices, program experience with the existing standards, and the pending program expansion. Reviews in several specific areas were recommended, including: Business practices and financial management; staff levels and qualifications; developmentally appropriate curricula and emergent literacy; transition services; mental health; nutritional requirements; family services; parental roles; services for the ''birth-to-three'' population; transportation; and program coordination. It also recommended the consideration of: (1) Standards and systems in effect in other early childhood programs; (2) work in other fields to establish outcome-based accountability systems; and (3) the guiding principles of the Administration's National Performance Review (i.e., increased responsiveness to clients and the minimization of regulations and paperwork). As principles for the review effort, it called for the promotion of quality, responsiveness to community needs, and the strengthening and streamlining of the standards. Finally, it advised consideration of the special needs and circumstances of programs serving American Indians and migrant and seasonal farm workers.

In making its general recommendations, the Advisory Committee noted the dramatic changes that had occurred in the world of Head Start families since 1965:

• The needs of poor children and families are more complicated and urgent. Violence, substance abuse, homelessness, lack of education, and unemployment are helping to make them so. At the same time, more of the Head Start service population is coming from single-parent families, increasing numbers of parents are working, and family literacy is increasingly being recognized as an important service need.

• Over the past three decades, the landscape of community services has changed dramatically. There are new roles and enhanced capacities for serving young children and their families. Today, we also have new knowledge about the attributes of services and supports that are effective in changing long-term outcomes for young children, new knowledge about the importance of the first three years of life, and new knowledge and appreciation for the continuum of developmental and comprehensive services that are often needed before school and into the early years to help children succeed in school.

While the Advisory Committee found that Head Start has succeeded in improving the lives of young children and their families, it cited some areas wherein further improvements were possible. These include: (1) Consistency in the quality of programs; (2) responsiveness to the diverse needs of Head Start families; (3) addressing the large unmet need for Head Start services; and (4) coordination of Head Start with other early childhood programs and elementary schools.

The 1994 Head Start Amendments reflect similar concerns on the part of the Congress. They include a number of provisions designed to improve program quality, including new requirements with respect to quality standards and program monitoring, technical assistance and training, staff qualifications and development, and an allocation for quality improvement activities. They also include a number of provisions to expand the nature and scope of services and to make programs more responsive to the needs of their service populations. For example, they add new requirements with respect to family literacy services and parental involvement, provide for an initiative for low-income pregnant women and families with infants and toddlers (Early Head Start), add requirements to facilitate the successful transition of Head Start children to elementary school, and mandate a study of the adequacy of full-day/full-year programs.

The amendments further provide that, in revising the current Program Performance Standards and in developing new ones, the Secretary must consult with experts in the fields of child development, early childhood education, family services (including ''linguistically and culturally appropriate services'' to children and families for whom English is not the primary language), and administration and financial management. They also require consultation with individuals with experience operating Head Start programs.

Additionally, the amendments require that the Secretary take several factors into consideration in developing the Program Performance Standards. These include: Past experience with the existing standards; changes over time in the Head Start service population; developments in best practices with respect to child development, children with disabilities, family services, program administration, and financial management; projected needs related to Head Start expansions; existing and potential standards and guidelines related to the promotion of child health; changes in the population of eligible children (including changes in family structures and languages spoken in the home); and local policies and activities designed to ensure the successful transition of Head Start children to elementary school.

The Advisory Committee on Services for Families with Infants and Toddlers was formed by the Secretary of Health and Human Services in July 1994 to advise and inform the Department on the development of program approaches for the new Head Start initiative serving low-income pregnant women and families with infants and toddlers (later named ''Early Head Start''). The Advisory Committee drew upon the experiences of a number of different programs (such as the Comprehensive Child Development Program, Parent and Child Centers, and Head Start Migrant Programs), the insights provided by participants in over 30 focus groups, three decades of research on child and family development, and extensive consultations with experts and practitioners in the field.

In September 1994, the Advisory Committee on Services for Families with Infants and Toddlers issued a formal statement setting forth both its vision and goals and its recommendations for program principles and cornerstones. It called for the development of a range of service strategies that would support the growth of the young child within the family and the growth of the family within the community. Thus, it envisioned program approaches that were family-centered and community-based. Its program principles included: (1) A commitment to excellence in the quality of the services provided as well as in program management; (2) the prevention and early detection of and early intervention with problems; (3) the early, proactive, and ongoing promotion of a child's healthy development; (4) the promotion of positive, continuous relationships that nurture the child, parents, family, and caregiving staff; (5) the promotion of parent involvement; (6) the inclusion of children with disabilities and respect for individual children and adults; (7) respect for home languages and cultures; (8) responsiveness to the unique strengths and abilities of the children, families, and communities served; (9) ensuring smooth transitions; and (10) collaboration and the active pursuit of partnerships with kindred programs.

On April 22, 1996, the Department of Education published a notice of interpretation in the Federal Register in which the Assistant Secretary for Elementary and Secondary Education interpreted section 1112(c)(1)(H) of Title I of the Elementary and Secondary Education Act of 1965 to require, beginning in fiscal year 1997, that local educational agencies choosing to use Title I, Part A funds to provide early childhood development services to low-income preschool children comply with the Head Start performance standards in 45 CFR 1304.21, Education and Early Childhood Development. (Title I preschool programs using the Even Start model or Even Start programs which are expanded through the use of Title I funds are exempt from this requirement.) Elsewhere in this issue of the Federal Register, the Assistant Secretary has published a notice of interpretation regarding compliance with this provision for the school year 1997–1998. For further information on the applicability of the Head Start Program Performance Standards to Title I programs, please contact the Director of Compensatory Education Programs at the Office of Elementary and Secondary Education, U.S. Department of Education, 600 Independence Avenue SW., Portals Building, Room 4400, Washington, DC 20202–6132. Telephone (202) 260–0826. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

IV. Approach

A fundamental challenge that we addressed in developing this regulation was to find the right balance between three important goals: (1) Addressing the critically important new areas for regulation identified in the statute; (2) maintaining quality and avoiding any reduction in the level of services prescribed in the standards, as mandated by statute; and (3) attempting to streamline the standards, avoid regulatory burden, and encourage flexibility and innovation.

Our approach to identifying the right balance included wide-ranging consultation with many different individuals and groups, consistent with the statutory requirements at section 641(A)(a)(3) regarding the consultations the Secretary had to undertake and the factors which the Secretary must consider in developing the revised Program Performance Standards. Following both the statute and the Administration's regulatory revision principles, we offered extensive opportunities for a wide range of interested parties to review and discuss the current Program Performance Standards.

Over 70 focus groups were convened in 1994–1995 involving approximately 2,000 individuals including subject experts, parents, educators, technical assistance providers, local sponsors of Head Start programs, Federal staff and persons with extensive program monitoring experience. In addition, representatives from a wide array of national organizations and agencies with particular interest in child and family issues were consulted, as were staff in other Federal agencies responsible for administering related programs and serving similar populations.

Based on this broad consultation, as well as on the work of the national Advisory Committees on Head Start Quality and Expansion and on Services for Families with Infants and Toddlers, we developed the following key elements of our approach to this regulation: (1) The current Program Performance Standards should be reorganized to reduce fragmentation and duplication, encourage holistic approaches, and emphasize partnerships with families and communities; (2) a single set of integrated standards for services from birth to age five should be developed; (3) the regulation should focus on requirements that are key to maintaining quality services and meeting new and emerging needs; and (4) the least burdensome approach to maintaining quality and meeting emerging challenges should be sought.

The Notice of Proposed Rulemaking (NPRM) was published in the Federal Register on April 22, 1996 (61 FR 17754–17792) with a 60-day public comment period. Over 1,100 comment letters were received, containing nearly 15,000 comments. We believe that the large number of comments received reflects the extensive consultation process which was used in developing the NPRM. Many of the comments were from current Head Start grantee and delegate agencies. Other commenters included: National, Regional and State Head Start associations; State agencies; and representatives of major professional associations and organizations concerned with infants, toddlers and preschoolers. In analyzing the comments received and in developing the final rule, the comments were grouped according to the specific standard being addressed, the broad issue areas raised, the major cross-cutting themes presented, and the type of comment.

We drew upon a number of principles in order to balance the many different views expressed in the comments and to help clarify and guide our decision-making for the final rule. Key among these were:

- *The purposes of the Program Performance Standards as established by the 1994 reauthorization of the Head Start Act and emphasized by the Advisory Committees on Head Start*

Quality and Expansion and on Services for Families with Infants and Toddlers. These purposes include updating the standards to respond to the emerging needs and circumstances of families and communities as well as to new research knowledge; ensuring program quality (and, as required by statute, ensuring that the level and quality of services do not fall below the current standards); and providing an entirely new set of standards to govern programs serving low-income pregnant women and families with infants and toddlers.

- *The appropriate role of Federal regulations as opposed to guidance on best practices or technical assistance and training.* Many commenters requested additional detail, specificity and prescriptiveness in the standards. While we balanced each request for more detail on an individual basis, in general we chose not to make the standards themselves more specific in the belief that overly prescriptive Federal regulations should be avoided in order to provide flexibility to grantee and delegate agencies to enable them to make programmatic decisions based on the needs of the children and families they serve and of the communities in which they are located. For example, many commenters questioned the deletion of the requirement in the current standards related to the use of child-sized utensils; and others sought more specificity about the curriculum that is required and how it should be implemented. With respect to the first example, while we would expect programs to use age-appropriate utensils, we did not include the requirement in the final rule because we felt that it would be overly prescriptive. Relative to the second example, we added a definition of ''curriculum'' in the final rule, but did not include more specifics in the standards themselves. Following the publication of the final rule, we do, however, plan to follow up with training and technical assistance as well as Guidance in order to share best practices and to give agencies the tools they need to make effective decisions at the local level.
- *The need to be sensitive and responsive to the major views expressed, while giving all perspectives full consideration, even when these perspectives were sharply different or even contradictory.* In a number of cases, we were able to identify new and better policy options as a result of contradictory comments provided on the NPRM. For example, as a result of the comments on both sides of the issue of a 90- versus a 45-day period for the conduct of health and developmental assessments, we developed an option that combines the benefits of both approaches.

In general, the comments we received confirmed the broad principles and structure of the NPRM, and were supportive of both the proposed standards and the consultation process we employed in their development. Commenters generally found the standards to be ''user-friendly,'' comprehensive and well-integrated, and expressed support for their tone and approach. They praised the standards' clarity, flexibility, cultural sensitivity, and responsiveness to the many issues expressed in the public consultation process. In addition to the integration of standards serving children from birth to age 5, particular aspects of the standards which the comments supported included the reorganization of the standards into three major new areas (Early Childhood Development and Health Services, Family and Community Partnerships, and Program Design and Management) to make them simpler and less fragmented than the existing standards; the increased emphasis on quality services and best practices; the strengthened emphasis on family and community partnerships; and the new sections on program design and management.

In addition to providing support for the proposed rule, other major categories of comments included the following:

- A number of commenters identified proposed standards that they believed imposed costs or other burdens or that were too rigid to meet local circumstances. Except in a very few cases, where we believed that the proposed standard was critical to ensuring quality, health or safety or meeting a statutory mandate, we sought to respond to these concerns by making the standards more flexible; by clarifying the intent more clearly through wording changes; or by proposing guidance or technical assistance to reduce the potential burden on grantees. For example, many commenters were concerned that the proposed standard requiring that volunteers be screened for tuberculosis before coming into contact with children would be costly, create a barrier to parent volunteers, and make no sense in communities with low incidences of tuberculosis. We have modified the standard to require screening only for regular volunteers and only when required by State, Tribal or local law. In the absence of such laws, Centers also may screen based on the recommendations of the Health Services Advisory Committee.
- Many commenters requested clarification of terms used in the standards which they found confusing. We have taken many of these comments into account and, in several cases, the requests for clarification were extremely helpful in identifying policy improvements that could be made. For example, many commenters pointed out that the proposed standards on compliance were confusing because they mixed two terms (non-compliance and deficiencies) and two different timeframes. In response, we revised these standards to focus solely on deficiencies. We believe that this change will enhance the ability of grantee and Federal staff to focus more analytically and systemically on areas affecting quality and results for children and families.
- Finally, many commenters provided suggestions regarding the implementation of the standards, including examples from their own practice. While most of these comments are not reflected in the language of the final rule, they were extremely helpful and will be used in guiding the major training, technical assistance and guidance efforts that we plan to undertake in the future.

V. Cross-Cutting Themes

The sections of the NPRM which received the most comments were Human Resources Management (45 CFR 1304.52), Program Governance (45 CFR 1304.50), Family Partnerships (45 CFR 1304.40), and Child Health and Developmental Assessment (45 CFR 1304.20). In addition, commenters raised important issues that cut across sections of the NPRM, such as the new structure of the Program Performance Standards; the provision of high quality services to infants and toddlers, including the need to ensure a sufficient emphasis on their needs in an integrated regulation; linkages between the proposed rule and the Head Start Program Performance Standards on Services to Children with Disabilities (45 CFR part 1308); and the need to place greater emphasis on the provision of services within the home-based program option.

Structure of the Standards

As noted above, a large number of commenters supported the reorganization of the standards into three major new areas: Early Childhood Development and Health Services, Family and Community Partnerships, and Program Design and Management. Commenters stated that the new approach is supportive of quality and integrated services and is more ''user-

friendly.'' We concur with these comments, and have retained the proposed structure.

Several commenters, however, raised concerns about how the new approach would be implemented, as the organizational structures and staffing patterns of many local programs are based on the program component structure of the current Program Performance Standards. There was also concern that the integration of program components proposed under the new structure would cause confusion for staff. We intend to respond to these comments by providing training, technical assistance and guidance following the publication of the final rule. We appreciate the suggestions made by some commenters regarding particular approaches and best practices that might be implemented to promote collaboration, and intend to draw on these suggestions in preparing the Guidance and the technical assistance materials.

Services for Infants and Toddlers

Overall, strong support emerged for the integration of standards for services to children from birth to age 5. The commenters generally felt that one set of standards for infants, toddlers and preschoolers would improve the quality and the continuity of services to children and families. We agree with these comments, and have retained the integrated structure of the standards.

At the same time, a number of concerns and questions were raised. Some commenters were unsure which standards apply to infants and toddlers and which apply to preschoolers and, in a few instances, requested that separate standards be established for each age group. In response, we reviewed each standard and have changed the wording, where appropriate, to reflect the standard's applicability to services for infants and toddlers, for preschoolers or for both groups.

Other commenters expressed the concern that, by integrating the standards for infants and toddlers with those for preschoolers, critical and distinct issues related to infant and toddler care would be lost, resulting in a dilution in the quality of services provided to those children. While we continue to believe, along with the majority of the commenters, that the integrated approach will support quality services for children from birth to age 5 and will also be easier for grantee and delegate agencies to use, we have responded to this concern in a number of ways. First, we reviewed individual standards to ensure that they reflect the particular needs of infants and toddlers. Standards which pertain specifically to the care of infants and toddlers and which are designed to ensure that their particular and special needs are addressed can now be found throughout the final rule in the areas of education, health and safety, nutrition, staff qualifications, child:staff ratios and group sizes, and facilities, materials, and equipment. Second, we intend to develop and issue Guidance materials and to provide extensive training and technical assistance specific to infants and toddlers following the publication of the final rule.

Several commenters requested further information and guidance on how to implement the new standards related to Early Head Start, particularly those pertaining to infants. We intend to provide such supportive technical information in the Guidance pertaining to the standards and in supplemental descriptive materials about Early Head Start. Commenters also questioned why the nine principles identified by the Advisory Committee on Services for Families with Infants and Toddlers as being characteristic of successful programs for families with very young children as well as the four cornerstones of such programs were not included in the NPRM. Although not explicitly referenced, these principles and cornerstones are reflected both in the organizational structure of the revised standards and in specific standards themselves. These principles and cornerstones, however, will be more specifically addressed in the Guidance and related materials to be developed in the future.

Many commenters proposed that the title ''Head Start'' be used to describe services to all children from birth to age 5, and that the title ''Early Head Start'' be deleted. There are, however, reasons for retaining the separate program designations. The two programs are described in separate sections of the Head Start Act, and there also are operational distinctions. For one, Early Head Start is a demonstration program, with specific project periods, whereas funding for Head Start is generally continued from year to year provided that grantees implement their programs in conformance with the Program Performance Standards and with other requirements. A recommendation also was made that Early Head Start be renamed ''Head Start for Infants and Toddlers''; we believe, however, that the title ''Early Head Start'' more accurately reflects the program's emphasis, since it serves low-income pregnant women as well as infants and toddlers.

Services for Children With Disabilities

Many of the comments about the NPRM raised issues related to the Head Start Program Performance Standards on Services to Children With Disabilities (45 CFR part 1308). The recommendations included: (1) Providing additional cross-references to 45 CFR part 1308; (2) developing specific standards on services to infants and toddlers with disabilities; (3) including a statement in 45 CFR part 1304 about the need to serve children with disabilities; and (4) integrating the standards in 45 CFR part 1308 into the final rule.

We share the concerns of these commenters that the provision of quality services to children with disabilities is a critical part of Early Head Start and Head Start programs, and that linking the two sets of standards as clearly as possible would not only contribute to quality services, but also would be easier for grantees to use. However, we chose not to integrate 45 CFR part 1304 and 45 CFR part 1308 at this time for several reasons. First, the disability standards at 45 CFR part 1308 were published in 1993, and our experience with them is still relatively new. Secondly, we wanted to ensure that sufficient attention would be focused on the new standards for infants, toddlers and pregnant women as well as on the revised standards for preschool children, which have not been revised since the 1970s. Should the need to integrate the two sets of standards become apparent in the future, we would consider amendments to the rules to do so.

We have responded to the concerns raised in several ways which we believe will make the linkages between the two sets of standards clearer and will further elevate attention to disabilities issues in the final rule. First, we have made additional cross-references to the disabilities standards in the final rule in order to improve cohesiveness between the two regulations. We also have incorporated a number of specific changes in the final rule designed to improve services for children with disabilities, drawing upon suggestions provided by commenters. For example, we have restored the 45-day timeframe for the conduct of developmental, behavioral and sensory screenings of children (which had been increased to 90 days in the NPRM) to ensure that children who require further evaluation or treatment and services are identified in time to be linked into the appropriate service systems.

Additionally, we intend to issue both 45 CFR part 1304 and 45 CFR part 1308

in the same document along with other applicable Head Start regulations. We believe that having the regulations located together, along with cross-referencing, will assist readers in better comprehending the full body of standards. We also will provide Guidance and fund training and technical assistance efforts to support our commitment to effectively serving children with disabilities from birth to age 5.

Home-Based Services

A number of commenters expressed the concern that the proposed standards, as written, focus primarily on center-based programs and do not adequately address other program options, particularly the home-based program option. To address these concerns, we reviewed each standard and changed the wording, where appropriate, to clarify the standard's applicability to center-based, home-based, or other program options. We also have added standards that apply specifically to the home-based option in the areas of education and early childhood development, family partnerships, and human resources management.

In addition to the changes in the NPRM based upon comments received, as discussed below, we also have made a number of technical edits to the NPRM in this final rule which did not alter policy and, therefore, they are not discussed.

VI. Section-by-Section Discussion of the Final Rule

SUBPART A—General

Section 1304.2 Effective Date

The majority of commenters found the proposed timeframes in which Early Head Start and Head Start grantee and delegate agencies must come into compliance with these standards confusing. Others said the deadlines were too short, arguing that they were inconsistent with the quality improvements being required; would not allow for the implementation of new requirements in a meaningful way; and would preclude the meaningful inclusion of parents, staff and community members in the decision-making processes. Commenters proposed several approaches and timeframes up to 24 months for planning and implementation. Other commenters, while supportive of the timeframes proposed, suggested that waivers be available to grantees which are unable to meet all of the requirements within these time periods.

We have changed the effective date in the final rule to January 1, 1998. We established one specific date in order to eliminate the confusion that was generated by the timeframes proposed in the NPRM. In addition, we extended the effective date in recognition of the time that will be needed by grantee and delegate agencies to comply with the new requirements established in the final rule, and by the Federal government to provide the Guidance materials and training and technical assistance necessary to assist agencies in these efforts.

Section 1304.3 Definitions

A number of commenters were supportive of the set of definitions provided, describing them as being specific, helpful and clear. Others requested that additional definitions be included in the final rule. In some cases, we decided that the concerns raised about definitions could best be addressed through clarifications provided in other sections of the Preamble or in the standards themselves, rather than in this section or through additional definitions. Requests for further clarification of the terms ''out-of-compliance'' and ''deficiency,'' for example, are discussed in the section of the Preamble relating to 45 CFR 1304.60; and requests for a definition of ''screening'' are addressed through the standards in 45 CFR 1304.20. Other additions, as well as deletions, to the definitions provided in 45 CFR 1304.3 of the NPRM based upon the comments received are discussed below.

Several commenters stated that, since the term ''center'' is used so often in the standards, a definition should be provided for clarity. However, since ''center-based program option'' is defined in 45 CFR 1306.3(a), we have not added this definition.

The definition of ''collaboration and collaborative relationships'' with other agencies (45 CFR 1304.3(a)(3)) remains the same as that provided in the NPRM. Grantee and delegate agencies are cautioned, however, that such collaborative relationships must be undertaken in a manner which is consistent with the cost principles established in OMB Circulars A–122 (''Cost Principles for Nonprofit Organizations'') and A–87 (''Cost Principles for State and Local Governments'').

Numerous commenters suggested that a definition of ''curriculum'' was needed in order to clarify the requirement in 45 CFR 1304.21(c)(1) that grantee and delegate agencies implement a curriculum. Others were concerned that the absence of a definition would result in too much room for misunderstanding and too much flexibility in curriculum development and selection. Other commenters raised more specific questions, such as: does the term refer to an individual or to a group curriculum? In response to such concerns, a definition of ''curriculum'' has been added in the final rule. The Guidance materials, to be developed at a later date, will discuss the implementation of a curriculum in both center-based and home-based settings.

Several commenters found the definition of ''home visitor'' in the NPRM confusing because it mixed center- and home-based program options and also applied the term to the infant and toddler caregiver in Early Head Start and to the classroom teacher in Head Start. We have revised the definition in the final rule so that it refers only to ''the staff member in the home-based option * * *'' and have made other clarifying edits.

The definitions of ''infant,'' ''toddler'' and ''preschooler'' proposed in the NPRM raised a number of concerns, particularly related to the issue of continuity of care. One commenter, for example, questioned whether the definition of ''toddler'' would mean that Early Head Start services must end the day that a child reaches his or her third birthday, resulting in the child being abruptly terminated during the program year. We concur with the concern that defining children by specific age groupings could restrict the ability of programs to make sound decisions about appropriate placements for children, particularly in Early Head Start. Therefore, we have deleted these definitions in the final rule. Additionally, the definition of Early Head Start has been clarified to emphasize that the program serves low-income pregnant women and families with children from birth to age three.

A few commenters questioned the use of ''staff caregiver'' for those staff having direct responsibility for the care and development of infants and toddlers and ''teacher'' for those staff having direct responsibility for the care and development of preschool children in center-based settings. In response to these comments, we have deleted the term ''staff caregiver'' in the final rule and have revised the definition of ''teacher'' to ''an adult who has direct responsibility for the care and development of children from birth to five years of age * * *.'' While we recognize that there is no consensus in the field on this issue, we believe that it is important to use one, consistent

term in order to create an integrated set of standards for services to children from birth to age five. By using common terminology, we are conveying the importance of continuity of care for children as well as helping to build professionalism in the field of infant and toddler care.

The term ''volunteer'' generated many comments, particularly in relation to the requirement in 45 CFR 1304.52(i)(2) in the NPRM that volunteers must be screened for tuberculosis. Many commenters stated that this requirement should apply only to volunteers who participate on an ongoing basis. We revised the definition in 45 CFR 1304.3(a)(20) in the final rule to clarify that a volunteer ''* * * assists in implementing ongoing program activities on a regular basis * * *'' Other commenters questioned why volunteers had to be 16 years of age or older, citing the fact that many students assist with Head Start program activities. We deleted the age reference in the definition of ''volunteer'' in response to these comments.

Subpart B—Early Childhood Development and Health Services

Section 1304.20 Child Health and Developmental Services

We received hundreds of comments related to child health and developmental assessment (45 CFR 1304.20), demonstrating the importance of this area to the Head Start community. While many of the comments were supportive of the requirements in the NPRM, it was clear from the numerous questions and requests for further clarification that the intent of these standards was not understood by many readers. In response, we have taken another look at the framework and structure for providing health services to children and families, beginning with changing the word ''assessment'' in the title of this section to ''services.''

Our primary goal in establishing standards for health services is to link children and families to a system of health care and to ensure that families have an ongoing source of continuous, accessible medical care. A new standard has been added at 45 CFR 1304.20(a)(1)(i) which formally expresses this goal.

To support this goal, major changes were made to the other standards in this section. These include: (1) Defining the roles of Early Head Start and Head Start staff and other health professionals; (2) clarifying the set of required clinical, laboratory, developmental, behavioral and sensory screenings and tests; (3) establishing timeframes for the completion of the screenings and tests; and (4) strengthening the requirements for services to children with disabilities. The specific changes related to each of these four areas are described below.

In specifying the roles and responsibilities of staff and other health professionals in the provision of health services, we refer again to the primary goal of establishing a long-term medical home for children and families. As revised, 45 CFR 1304.20(a)(1)(ii) indicates clearly that local health care professionals have primary responsibility for making decisions about the child's health status and the need for further services. This provides an opportunity for a relationship to develop between provider and patient that, hopefully, will continue after the family has left Early Head Start or Head Start. Early Head Start and Head Start staff will continue to have an important role in determining the health status of children by working with parents to ensure that health care professionals conduct an initial determination of the status of the child's health and provide any further diagnostic testing, examinations and treatment as needed. In order to assure that staff have the information needed to ensure that proper and timely health services are being provided, we have added another standard at 45 CFR 1304.20(a)(1)(ii)(C), which requires grantee and delegate agencies to establish procedures to track the provision of health care services.

During the process of describing the roles and responsibilities for the provision of health services, we looked at both the short-term and long-term needs of children and families. Currently, Early Head Start and Head Start staff have a pivotal role in providing and organizing health care services. We acknowledge that Early Head Start and Head Start staff, especially those in communities with limited health care resources, assume the role of the provider or organizer of health care services to meet the immediate health care needs of children. However, staff must keep in mind the long-term goal of ensuring that each child and family has a ''medical home'' with which they can remain involved when the child is no longer enrolled in Early Head Start or Head Start.

In 45 CFR 1304.20(b), (45 CFR 1304.20(d) in the NPRM), the division of responsibilities with regard to the conduct of developmental, behavioral, and sensory screenings of the child's motor, language, social, cognitive, perceptual, and emotional skills is further delineated. (The standard at 45 CFR 1308.6(b)(3) contains additional information on identifying children with disabilities.) Recognizing that it is the staff and parents who have the opportunity to observe children on an ongoing basis and in a variety of settings, Early Head Start and Head Start staff, in collaboration with the parents, are responsible for performing or obtaining the majority of these screenings. Staff must, however, work with mental health, child development, or other health professionals in the administration of these tests as needed, in the interpretation of the results, and in obtaining assistance in planning further screening and treatment.

In keeping with our new framework of establishing an ongoing system of health care for children and families, we also moved 45 CFR 1304.22(a) (as printed in the NPRM), which requires the provision of extended health follow-up and treatment, to 45 CFR 1304.20(c).

The second major change to this section was the deletion of the standard listing the specific medical and developmental tests that must be completed (45 CFR 1304.20(c)(1) in the NPRM). Instead, 45 CFR 1304.20(a)(1)(ii) in the final rule states that the requirements for well child care must incorporate the latest immunization recommendations of the Centers for Disease Control and Prevention and the requirements for a schedule of well child care employed by the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) program for the State in which the grantee operates, as well as any additional recommendations from the local Health Services Advisory Committee based on prevalent community health problems.

This change satisfies several concerns. First, some commenters raised the concern that the schedule from the Centers for Disease Control and Prevention evolves over time and that the EPSDT program varies from State to State. Because, under the EPSDT, each State can determine for itself the list of appropriate tests, immunizations, and schedules of well child care, commenters stated that they had experienced problems in the past in getting local providers to complete Head Start's list of screenings, assessments, immunizations, and other well child procedures when State requirements did not include one or more of these procedures and Medicaid would not pay for the service. This change provides local health professionals with the ability to respond to the needs of their communities.

Other commenters pointed out that, by following State requirements, grantee and delegate agencies across the country

would be using somewhat different criteria for the provision of health services, and they questioned how on-site program reviewers would respond to this situation. It is our intent that the reviewers will be provided with the information needed to monitor each grantee and delegate agency according to its State's standards.

A second concern addressed by eliminating the specific list of screenings and tests relates to the fact that medical standards change over time. By linking health care services to the Centers for Disease Control and Prevention and EPSDT schedules, the services received by children will generally not become outdated, as both of these schedules are updated regularly to reflect current knowledge and best practice. Third, reliance on the Centers for Disease Control and Prevention and EPSDT schedules will eliminate duplication of effort between Early Head Start and Head Start staff and other health professionals and, finally, this change supports our goal of limiting the prescriptiveness of Federal regulations.

The third major change in this section relates to the proposed requirement that the health care screenings and tests be completed within 90 calendar days from the child's enrollment in Early Head Start or Head Start. This standard (45 CFR 1304.20(a)(1) in the NPRM) received more comments than any other in this section. Commenters either supported the new timeframe, wanted it returned to 45 days as required by 45 CFR part 1308, or proposed a compromise of 60 days. Of the commenters in support of the 90-day requirement, many were from rural areas of the country and pointed out that the resources (particularly dental services) do not exist to serve all children within the 45-day limit. On the other hand, critics of the 90-day requirement were concerned about the importance of identifying health conditions as early as possible for infants and toddlers and for children with (or suspected of having) disabilities. Those in favor of retaining the 45-day limit in Part 1308, felt that, while challenging, it was reasonable, and that many grantee and delegate agencies already had systems in place to meet that requirement.

Due to the wide variation in the availability of health care from community to community, and because our general approach to rule-making highlights flexibility for local programs, we have retained the 90-day requirement for the determination of the child's health status and needs in the final rule. In response to the comments received, and in recognition of the difficulties in delivering health care services to low-income families, we have clarified the tasks that must be completed within the 90 calendar day timeframe. In retaining this longer timeframe, we do not wish to suggest that grantee and delegate agencies should take the full 90 days to determine each child's status. Rather, we encourage all agencies to complete the process described in 45 CFR 1304.20(a) as early as possible after a child's entry into the program. We recognize the critical nature of time in determining the health status of infants, and we particularly recommend an early start and completion of the process for this age group.

While the initial determination of children's health status, which depends in part on available resources in the community, may take up to 90 days, the process of developmental, sensory, and behavioral screenings must take place within 45 calendar days (as discussed in the final rule in 45 CFR 1304.20(b)). As indicated above, these screenings will be performed, in large part, by Early Head Start and Head Start staff in collaboration with each child's parents. As the conduct of these screenings do not depend as much on the availability of local health care resources, we believe that the 45-day timeframe is appropriate. Further, the 45-day limit supports the early identification and provision of services for children with disabilities as described in 45 CFR part 1308, and supports coordination with other Federal programs serving children with disabilities (i.e., the Child Count submitted to the U.S. Department of Education by each State Education Agency).

A related standard, 45 CFR 1304.20(a)(2) in the final rule, requires that grantee and delegate agencies operating programs for 90 days or less must complete health determinations and follow-up plans no later than 30 calendar days after the child's entry into the program. We received both criticism and support for this requirement. The supporters pointed out that this standard would ensure that children receive needed health services, while the critics stated that the 30-day limit would be difficult to meet. We have not changed the timeframe in this standard because we believe that it is critically important that children enrolled in programs of shorter duration, who are less likely to have a stable ''medical home'' due to the transient nature of their parents' employment, have their health needs identified as soon as possible.

We received a few comments on the information collection requirements concerning child health and developmental assessments which are required in 45 CFR 1304.20(a). These comments concerned the gathering of health and developmental assessment information for each child. Changes have been made to the standards to emphasize that Early Head Start and Head Start programs should assist parents in connecting to a ''medical home'' (45 CFR 1304.20(a)(1)(i) and that they should obtain information from a health care professional rather than gathering it themselves.

The last major change to this section relates to the requirements for health care services for children with disabilities. In response to the comments received throughout this section regarding the inter-relation of this section with the requirements of 45 CFR Part 1308, we modified 45 CFR 1304.20(f)(2) and have added four new standards at 45 CFR 1304.20(f)(2) (i)–(iv) in order to more clearly specify the requirements for programs serving infants and toddlers suspected of having or having diagnosed disabilities. These standards clearly state the requirement that Early Head Start staff coordinate with and actively support the efforts of Part H of the Individuals with Disabilities Education Act providers to attain expected outcomes in each child's Individualized Family Service Plan, including the support of transition activities. As such, they are consistent with and supportive of 45 CFR part 1308, which articulates the requirements for serving children with disabilities. The standards also emphasize our commitment to collaborate with other agencies serving Head Start families.

In addition to the major revisions to this section, a number of modifications were made to the wording in several of the standards in response to the comments received. For example, we substituted ''consult with parents'' for ''inform parents'' about suspected problems in 45 CFR 1304.20(b)(1) (45 CFR 1304.20(e)(1) in the final rule) because commenters wanted to acknowledge and support the two-way nature of the process. We have also specified that a child's ''entry'' into the program for the purposes of 45 CFR 1304.20(a)(1) and 45 CFR 1304.20(a)(2) means the first day that Early Head Start or Head Start services are provided to the child. Additionally, in response to technical comments received, we made two changes which do not result in any reduction of services: We dropped the reference to ''dental bone'' (45 CFR 1304.22(a)(3)(i) in the NPRM) which is not technically accurate, and we also deleted ''dental sealants'' (45 CFR

1304.22(a)(3)(ii) in the NPRM) as they are not customarily used for preschool children. In 45 CFR 1304.22(a)(2) (45 CFR 1304.22(b)(2) in the NPRM) the reference to ''staff member'' was removed because this section of the regulation addresses child health and safety issues. We will provide information on procedures for dealing with staff emergencies in the Guidance. We also reworded, and added new standards to, 45 CFR 1304.20(f)(2) regarding the roles of Early Head Start and Head Start and Part H staff in order to emphasize partnerships between grantee and delegate agencies and other agencies serving Early Head Start and Head Start children and families and to enhance collaboration with the Part H agency in supporting family involvement and child participation.

An issue raised by some commenters related to the appropriate role of parents in obtaining assessment, screening, and follow-up services for their children. Some commenters stated that the role of parents in 45 CFR 1304.20(e) (45 CFR 1304.20(b) in the NPRM) should be strengthened. They argued that parents should be required to accompany their child to all assessment, screening and follow-up services, both to be part of the decision making team and to learn about effective ways to advocate for their children's health care in the future. Others opposed requiring parents to be present during the health screening process, arguing that welfare reform requirements for parents to work or be enrolled in a training program greatly limit the ability of parents to accompany their children to these appointments. Although we clearly prefer that parents accompany their children to these appointments, we have not changed the standard, choosing instead to provide grantee and delegate agencies with the flexibility needed to respond to the circumstances facing individual parents in their communities.

Comments also were received on the information collection requirement that grantee and delegate agencies have ''written documentation of their efforts to access other available funds for medical and dental services.'' (45 CFR 1304.22(a)(5) in the NPRM; 45 CFR 1304.20(c)(5) in the final rule). Commenters stated that it is sometimes difficult to obtain written documentation on why agencies refuse to pay for or will not provide services. It was not the intent of the standard to have other agencies provide this information, but, rather, to have Early Head Start and Head Start agencies create a record of their efforts to access other sources of funding. Thus, we have reworded the standard to require programs to provide ''written documentation of their efforts to access other available sources of funding'' (45 CFR 1304.20(c)(5)).

The last group of comments on this section were requests for additional guidance on the following issues: how to share information with parents regarding staff concerns about their children; how to work with parents so that they effectively introduce upcoming health procedures to their children; how to obtain input from multiple sources concerning the child's behavior; and who might be used to conduct the different assessments. Each of these issues will be addressed in the Guidance to be developed at a later date.

Section 1304.21 Education and Early Childhood Development

Commenters generally supported the new standards regarding child development and education, and they applauded the standards' clarity, specificity, and developmental appropriateness. Many approved the fact that the standards cover the age range from birth to age 5 and address the common needs of young children across this age span. In addition, commenters supported the flexibility to design and implement programs to meet the needs of the whole child. Many positive comments also focused on the expanded discussion of the involvement of parents in the organization and delivery of education and early childhood development services.

Commenters expressed three overarching concerns regarding the education and early childhood development standards as they appeared in the NPRM: (1) They are not integrated with the disability regulations (45 CFR Part 1308), (2) they over-emphasize the center-based program option, and (3) they are unclear concerning curriculum development. First, a number of commenters questioned why the disability regulations were not integrated within this set of regulations. They felt that a fully integrated set of standards would be more powerful in communicating the message that services for children with disabilities is an integral part of Early Head Start and Head Start. They also suggested that it would be more practical for staff and parents to look at only one document to find a complete set of standards for the education of all children. We have chosen not to more fully integrate the disability standards into this set of standards at this time for the reasons discussed earlier in Part V of the Preamble. However, we have increased the cross-references to 45 CFR part 1308 in this section.

Second, many commenters felt that the standards were too oriented toward the center-based program option and did not fully discuss the delivery of services through other program options. In order to address these concerns, and to underscore the viability of the home-based program option, we have made several types of changes in the standards.

In response, we have added two standards to this section of the final rule to further support program implementation of the home-based program option. In 45 CFR 1304.21(a)(1)(iii) of the NPRM, the standard required a balanced daily program of staff-directed and child-initiated activities in center-based settings (45 CFR 1304.21(a)(1)(iv) in the final rule). A new standard, 45 CFR 1304.40(e)(2), reinforces that the home visitor must ''* * * build upon the principles of adult learning to assist, encourage and support parents as they foster the growth and development of their children.'' This standard makes clear the role of the parent in fostering child development.

The second standard is concerned with the physical development of children in home-based program options. In the NPRM, 45 CFR 1304.21(a)(5) discussed program requirements related to the physical development of children in center-based settings only. In the final rule, we have added 45 CFR 1304.21(a)(6) to support the physical development of children in home-based settings, stating that ''grantee and delegate agencies must encourage parents to * * * appreciate the importance of physical development, provide opportunities for children's outdoor and indoor active play, and guide children in the safe use of equipment and materials.''

We also changed the wording in other standards in this section to clarify their relevance to the home-based option. In general, these changes have consisted of changing a verb, such as ''provide.'' In the NPRM, the standards frequently required the grantee to ''provide'' a service. In order to reflect more accurately that grantee and delegate agency staff do not directly provide all of the opportunities and services in the home-based option, but rather work with parents to ensure that the breadth of services is provided, we have changed the language used. For example, in 45 CFR 1304.21(a)(4)(ii) of the NPRM, grantee and delegate agencies were required to support the development of cognitive and language skills by ''providing opportunities for creative self-expression through activities such as art, music, movement,

and dialogue.'' We changed ''providing opportunities * * *'' to ''ensuring opportunities * * *'' in the final rule to make clear that the standard applies to home-based as well as center-based options.

The NPRM encouraged comments on the standards related to the development of the curriculum (45 CFR 1304.21(a)(2)(i) and 45 CFR 1304.21(c)(1)). Commenters supported the requirements regarding the developmental and educational needs of young children, and stated that the requirements for the curriculum were strong and age-appropriate. However, many commenters requested clarification of the terms used in this section. The questions asked included: Must a new curriculum be selected each year, since the group of parents will change each year? What exactly is the role of the parents in the development, selection or adaptation of the curriculum? Do the standards require that each agency purchase a pre-packaged curriculum? Must each agency adopt a program-wide curriculum that will be uniformly implemented with each child? The intent of these standards was to ensure that parents, and potentially other persons, such as early childhood education professionals and Tribal elders, are integrally involved in the process of building a curriculum for their children, but the specific tasks in which the parents might be involved were not listed because they are the decision of each grantee or delegate agency.

The intent of the standard was not that agencies must select a new curriculum each year but, rather, that staff and parents work together to modify and individualize the curriculum. These decisions are the local agency's prerogative and these standards, therefore, reflect the flexibility we believe that local agencies should have. In the final rule, we have made clarifying changes in order to eliminate the confusion generated by some of the standards as proposed in the NPRM. We are now requiring in 45 CFR 1304.21(c)(1) that agencies ''implement'' a curriculum in collaboration with the parents rather than develop or select a curriculum that is adapted for each group and applied cocsistently in the program as proposed in the NPRM. A number of commenters also requested a definition of curriculum, and a definition applicable to both center-based and home-based options has been added in 45 CFR 1304.3(a)(5) of the final rule.

Based upon the recommendations of several commenters, we amended the standards at 45 CFR 1304.21(a)(1)(ii) (45 CFR 1304.21(a)(1)(iii) in the final rule) and 45 CFR 1304.21(a)(3)(i)(E) to require that grantee and delegate agencies support and respect gender, culture, language, ethnicity, and ''family composition.'' We also have added a new standard at 45 CFR 1304.21(a)(2)(iii) which more clearly links the staff-parent conferences in 45 CFR 1304.40(e)(4) and the home visits in 45 CFR 1304.40(i)(2) with opportunities for parents to discuss their child's development, progress and education.

Several commenters were concerned about the use and possible misuse of some new phrases. First, the heading of 45 CFR 1304.21, ''Education and early childhood development,'' was criticized as inventing a new discipline. We believe that this title appropriately reflects the substance of the section. It is not intended to, nor should it be read to, invent a new discipline.

Second, the requirement of helping children gain the skills and confidence needed to succeed in their present environment as well as later in life, including school, was used in 45 CFR 1304.21(a)(1). Further, the development of cognitive skills to form a foundation for school readiness and later school success was presented in 45 CFR 1304.21(c)(1)(ii). Several commenters felt that these references to the child's upcoming experiences in elementary school suggested that school performance is now the overall goal for Head Start's child development and education program, which is clearly not the case. In introducing this language, we did not intend to restrict or diminish Head Start's overall goal of increasing the social competence of young children. Rather, the intent was to recognize that the benefits of Head Start's attention to social-emotional, physical and cognitive development will be valuable in all settings, including schools. Primary schools require children to demonstrate skills in all of these areas: Not only must they respond to cognitive challenges, but they also are asked to interact with other adults and children, show responsibility and self-help skills, and demonstrate physical competence. Therefore, the language has been retained in the final rule.

Most of the other comments on the individual standards within the Education and Early Childhood Development section dealt with requests for the clarification of terms. In some instances, the commenters requested a change in the language used. For example, several found the phrases ''individual preferences'' and ''individual patterns of development'' and ''different ability styles'' in 45 CFR 1304.21(a)(1)(i) confusing, and suggested changing them to ''individual rates of development'' and ''individual interests, temperaments, languages, cultural backgrounds, and learning styles.'' A number of commenters did not support the use of the terms ''large muscle'' and ''small motor'' skills in 45 CFR 1304.21(a)(5)(i) and 45 CFR 1304.21(a)(5)(ii), preferring ''gross motor'' and ''fine motor.'' Because the suggested language is clearer and more consistent with the field of child development, these changes have been made. A few commenters struggled with the use of the term ''self-knowledge'' in 45 CFR 1304.21(b)(2)(i) in the context of infants and toddlers, noting that infants and toddlers are not at the point of reflecting on their own state of being. Therefore, the term ''self-awareness'' has been substituted for ''self-knowledge.''

A few commenters recommended that a balanced daily program (45 CFR 1304.21(a)(1)(iv)) should include activities which are ''child-initiated and adult-directed,'' rather than ''staff-directed and child-initiated.'' The final rule includes this recommended language. Finally, a few commenters recommended that the proposed standard at 45 CFR 1304.21(b)(3)(iii), requiring that infants and toddlers be supported in their toilet training and in their use of toilet facilities, be applied to preschoolers as well. These commenters stated that this issue is important to the development of all young children, regardless of age. We agree with this recommendation, and have organized the section so that this standard now appears in the section that applies to all children at 45 CFR 1304.21(a)(1)(vi).

Section 1304.22 Child Health and Safety

In general, commenters supported the increased emphasis on health and safety in 45 CFR 1304.22. In particular, they praised the addition of standards in the areas of hygiene (45 CFR 1304.22 (f)), short-term exclusion (45 CFR 1304.22(c)), and first aid (45 CFR 1304.22(g) in the NPRM and (45 CFR 1304.22(e), (b) and (f), respectively, in the final rule). Other commenters indicated that some of the standards in this section would impose additional costs on grantee and delegate agencies or needed to be further clarified.

While some comments indicated support for the section on the conditions of short-term exclusion and admittance (45 CFR 1304.22(c) in the NPRM), the majority found the wording to be confusing and contradictory. Some

commenters stated that this section may conflict with the Americans with Disabilities Act (ADA), in particular expressing concern that the proposed wording might result in the exclusion of children with conditions such as Human Immunodeficiency Virus (HIV) infection or severe behavioral problems. Our intent is not to permanently exclude children with chronic or communicable diseases. Rather, it is to ensure the health and safety of all children by requiring that grantee and delegate agencies exclude children who have short-term acute conditions that are contagious and pose an immediate risk to others in Early Head Start and Head Start settings. Infection with HIV is definitely not a condition of short-term exclusion; when proper precautions are used, children with HIV infections do not pose risks to others. We have streamlined, reworded, and reorganized this section (45 CFR 1304.22(b) in the final rule) in order to clarify our intent. As revised, the first paragraph (45 CFR 1304.22(b)(1) relates to enrolled children with short-term injuries or illnesses (such as chicken pox or strep throat). The second paragraph (45 CFR 1304.22(b)(2)) stresses that grantee and delegate agencies must not deny children admission to, or participation in the program for a long-term period, solely on the basis of their health care needs or medication requirements (such as HIV or asthma), consistent with the requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act. Further clarification of issues, such as examples of acute conditions which pose a significant risk to health or safety, will be provided in the Guidance.

Some commenters raised concerns about potential confidentiality issues. For example, a number of comments were received on the proposed standard at 45 CFR 1304.22(c)(5) in the NPRM (45 CFR 1304.22(b)(3) in the final rule), which requires staff to ask parents about any health risks that their child may pose. Using HIV as an example, the majority of commenters focused on legal issues and the potential conflict between the standard, ADA, and other laws. The purpose of this standard is two-fold. First, it ensures that staff are informed about conditions that they may need to address during program hours, both to prevent contagion and to protect the affected children whose conditions may place them at risk of harm from contact with others. Second, it ensures proper observation and supervision for children who require close monitoring because of potential side effects from the medications they are receiving. We have modified the wording of the standard for clarity. The standard at 45 CFR 1304.22(b)(3) now requires that grantee and delegate agencies ''* * * request that parents inform them of any health or safety needs of the child that the program may be required to address. Programs must share information, as necessary, with appropriate staff, regarding accommodations needed in accordance with the program's confidentiality policy.''

Confidentiality concerns also were raised about the standard mandating the sharing of information with staff, parents, and physicians regarding a child's reaction to medication (45 CFR 1304.22(d)(5) of the NPRM). Many commenters were concerned that information would be shared with others without expressed parental authorization. We agree with these concerns, and have changed the wording in the final rule (45 CFR 1304.22(c)(5)) to clarify that the intent of this standard is to ensure the health and safety of a child who is taking medication and to assist parents ''* * * in communicating with their physician regarding the effect of the medication on the child.''

Concerns raised about potential costs to grantees focused on two standards. First, while several commenters supported the standard mandating the use of a utility sink for cleaning potties (45 CFR 1304.22(f)(6) in the NPRM), a larger number raised concerns about the present lack of utility sinks in some centers and the costs of plumbing modifications. Nonetheless, due to the risk of contamination, and in the interest of the health and safety of all children and adults at Early Head Start programs, we believe that utility sinks must be used when cleaning potties. Furthermore, this requirement is consistent with licensing requirements or regulations in over one-third of the States. Therefore, we have made no changes to this standard, which can be found at 45 CFR 1304.22(e)(6) in the final rule.

Standard 45 CFR 1304.22(f)(7) on the spacing of cribs and cots also produced many comments. A number of commenters supported this standard, but the majority raised concerns about the cost of spacing cribs and cots three feet apart and the impact that this would have on programs' ability to serve children: either more space would be required or the number of children served would decrease. After careful consideration, we have decided to keep the required space between cribs and cots at three feet (45 CFR 1304.22(e)(7) in the final rule). Although we recognize the possible cost impact, we want to emphasize the importance of avoiding the spread of contagious illness and the need to allow for easy access to each child in case of an emergency.

A number of commenters indicated the need for clarification and additional information on several health and safety standards. For example, the majority of comments received on the proposed standard at 45 CFR 1304.22(f)(3) in the NPRM (45 CFR 1304.22(e)(3) in the final rule) mandating the use of gloves criticized the lack of clarity and the potential for a very rigid interpretation. This standard does not require staff to wear gloves during routine diapering or when wiping noses. Following guidelines established by the Occupational Safety and Health Administration, gloves are to be worn when staff come into contact with spills of blood or other visibly bloody bodily fluids. We believe that the proposed standard is sound, and will provide additional information on when gloves should be used in the Guidance and in training materials. Other health and safety standards that require further clarification will also be addressed in the Guidance.

Commenters also noted areas throughout this section in which staff would need training. In order to maintain consistency throughout the standards, staff development and training are addressed in 45 CFR 1304.52(k)(3), which requires that training be provided on the content of the Program Performance Standards. We will address specific training issues in the Guidance and through training and technical assistance efforts. For example, staff training on emergency procedures, such as CPR, first aid, and medication administration, will be addressed in the Guidance. We also recognize that the intent of certain health and safety standards is to ensure that staff demonstrate and implement health and safety practices and procedures. Accordingly, we have revised the language in 45 CFR 1304.22(c)(6) and 1304.22(d)(1) to clarify that intent.

In other cases, we have made changes in the standards themselves based upon the suggestions provided by commenters. For example, a few commenters proposed that emergency procedures be practiced monthly or on a specified time schedule. We agree that these procedures need to be practiced regularly, and have changed standard 45 CFR 1304.22(b)(3) of the NPRM (45 CFR 1304.22(a)(3) in the final rule) to reflect this important issue. We have not, however, specified a particular time

period in the standard, as some commenters suggested. We believe that grantee and delegate agencies need to exercise sound judgement in this area, and that establishing a schedule goes beyond the scope of Federal regulation. We intend to provide additional information on best practices in these areas in the Guidance. We also have deleted the reference to ''staff member'' in 45 CFR 1304.22(a)(2) (45 CFR 1304.22(b)(2) in the NPRM) because this section of the regulation addresses child health and safety issues. We will provide information on procedures for dealing with staff emergencies in the Guidance.

Finally, due to the changes made to 45 CFR 1304.20 on child health and developmental services, sections of the NPRM on medical and dental follow-up and treatment (45 CFR 1304.22(a) (1)–(5)) have been moved to 45 CFR 1304.20 in the final rule, since they are a key part of the processes described in that section.

Section 1304.23 Child Nutrition

Commenters were generally supportive of the nutrition standards, citing, in particular, the flexibility they give grantees in the implementation of the nutrition program. Criticisms centered around four issues. First, many commenters noticed the absence of a standard requiring that Early Head Start and Head Start grantee and delegate agencies participate in one of the child nutrition programs offered by the U.S. Department of Agriculture. They pointed out that such a requirement had been issued previously (see ACYF Transmittal Notice 80.2, dated April 17, 1980, and ACYF–IM–HS–95–29) and, in the interest of completeness, should be repeated here. We agree, and in order to consolidate the existing requirements have added a new standard, 45 CFR 1304.23(b)(1)(i) in the final rule, which states that ''All Early Head Start and Head Start grantee and delegate agencies must use funds from USDA Food and Consumer Services Child Nutrition Programs as the primary source of payment for meal services. Early Head Start and Head Start funds may be used to cover those allowable costs not covered by the USDA.''

Second, numerous commenters criticized the omission of the standard requiring the use of child-sized utensils and furniture. They strongly supported the use of such furniture and equipment, and stated that a standard was needed to facilitate such use. Although we also strongly support the use of age appropriate equipment and materials, such as child-sized utensils and furniture, we have not added such a standard to this section, as we do not believe that Federal regulations should prescribe practice at this level of detail. A related standard, 45 CFR 1304.53(b)(1)(iii), continues to require that equipment, toys, materials, and furniture owned or operated by the grantee or delegate agency must be ''age appropriate, safe and supportive of the abilities and developmental level of each child served * * *,'' while leaving grantee and delegate agencies with the flexibility of determining how to implement this requirement in accordance with sound early childhood practice.

Third, many commenters criticized the inclusion of the words ''family style'' in the description of meal service in center-based settings (see 45 CFR 1304.23(c)(4)), arguing that: (1) The phrase could be interpreted in many ways, depending on family and cultural traditions; (2) some local and State laws prohibit ''family meal service'' for sanitation reasons; (3) in some instances teachers' job descriptions may be inconsistent with this requirement; and (4) it would be difficult to comply with this standard if the grantee or delegate agency is part of a local school system or purchases food service from an outside vendor because food may come to children in prepackaged portions. Many commenters recommended returning to language similar to that in the current standard. Although many of these concerns are valid, we have retained ''family style'' in the final rule, defining it simply as adults and children eating together, sharing the same menu, and talking together in an informal way. To address the stated concerns, the Guidance will discuss a variety of ways in which agencies might implement this standard. For example, it will suggest that, if teachers are required to have time off between morning and afternoon sessions, aides, volunteers, and other adult staff may eat with the children. In addition, if children's meals are already packaged in individual servings, staff and children may still enjoy eating together and talking.

Finally, several commenters were concerned about the proposed qualifications for nutrition staff, and stated that they had difficulties finding appropriately qualified staff in their communities. Because the qualifications of staff are discussed in a different section of the standards (45 CFR 1304.52(d)), we have consolidated the comments on nutrition staff qualifications in that location of the Preamble.

In addition to the four issues cited above, many commenters requested clarification of the language used in the proposed standards. For example, several commenters cited difficulties in interpreting the term ''nutritional assessment'' in 45 CFR 1304.23(a) in the NPRM, indicating that this term, as used in medical communities, would require the services of a licensed assessor, increasing costs considerably. Since we did not intend that this evaluation of children be as extensive as a formal medical assessment, we have changed the title of 45 CFR 1304.23(a) from ''Nutritional assessment'' to ''Identification of nutritional needs.'' In addition, we have clarified 45 CFR 1304.23(a)(1) by changing the phrase ''The nutrition-related assessment data'' to ''Any relevant nutrition-related assessment data'' to suggest that the data that are collected as a part of the medical and dental evaluations of children should be examined from the point of view of child nutrition and used to support and direct the nutrition program.

We received several comments on the information collection requirements to complete nutritional assessments and to record information on family eating patterns and community nutritional issues which are required in 45 CFR 1304.23(a). Some concern was expressed about the level of paperwork that would be required to document nutritional assessments with families. In response, we have clarified 45 CFR 1304.23(a)(1) so that, in identifying a child's nutritional needs, staff must take into account ''any relevant nutrition related assessment'' data. This will increase the flexibility in using pre-existing records rather than conducting special nutritional assessments.

Several commenters discussed the fact that their Health Services Advisory Committee was instrumental in identifying major community nutritional issues, and recommended that this group be identified by name in 45 CFR 1304.23(a)(4). We have adopted this suggestion, and have added the Health Services Advisory Committee to the list of sources to be used. A few commenters suggested changes in the phrasing of 45 CFR 1304.23(b), Nutritional services, and its subparts. Some stated that 45 CFR 1304.23(b)(1) was too prescriptive, as it implied that an agency must devise a special feeding schedule for each child. This was not the intent. In order to clarify the meaning of this standard, we have omitted the term ''feeding schedules'' and have changed the language to ''* * *a nutrition program that meets the nutritional needs and feeding requirements of each child, including those with special dietary needs and

children with disabilities.'' We also have modified the language in 45 CFR 1304.23(b)(1)(ii) (45 CFR 1304.23(b)(1)(i) in the NPRM) by changing the list of required types of meals that must be served from ''snack(s), lunch, and other meals, as appropriate'' to simply ''meals and snacks.'' In response to comments requesting clarification of the term ''sparingly'' as used in 45 CFR 1304.23(b)(1)(v) in the NPRM (45 CFR 1304.23(b)(vi) in the final rule), we have rewritten the language to require that agencies serve foods ''high in nutrients and low in fat, sugar, and salt.''

Several commenters requested the addition of more definitive food group references to 45 CFR 1304.23(c)(1). We have not changed the standard because we do not believe that Federal regulations should prescribe practice at this level of detail. However, the Guidance will discuss ways in which a variety of foods from all food groups can be served to children.

Finally, many commenters suggested new language for 45 CFR 1304.23(e), Food safety and sanitation. In 45 CFR 1304.23(e)(1), a few commenters requested clarification of the term ''properly licensed'' in reference to food service agencies. We have omitted the word ''properly'' in the final standard, using instead the phrase ''licensed in accordance with State, Tribal or local laws.'' Several commenters suggested that we add ''formula'' to the requirement for the proper storage and handling of breast milk in 45 CFR 1304.23(e)(2), as both of these substances may be brought from home to the center and need to be stored and handled appropriately. Although we believe that formula is covered under 45 CFR 1304.23(e)(1), which requires the safe and sanitary storage and preparation of food, we also have included it in 45 CFR 1304.23(e)(2) in order to re-emphasize the critical nature of food storage and handling for infants.

In addition to the issues raised with regard to nutrition and the requests for clarification of the language used in the standards, commenters also described the need for guidance in the implementation of several of the standards. Specifically, they requested more information on activities to promote effective dental hygiene (45 CFR 1304.23(b)(3)); a listing of the appropriate community agencies to involve in implementing nutritional services (45 CFR 1304.23(b)(4)); guidelines regarding the amount of time children should be given to eat meals and snacks (45 CFR 1304.23(c)(3)); a list of ''other'' dietary requirements that children might have (45 CFR 1304.23(c)(6)); suggestions for how families can be assisted with food preparation and nutrition skills (45 CFR 1304.23(d)); and a detailed description of the optimal procedure for storing and handling breast milk (45 CFR 1304.23(e)(2)). These topics will be addressed in the Guidance materials to be published at a later date.

Section 1304.24 Child Mental Health

Commenters generally supported the increased emphasis on mental health services for children in the proposed standards, which they found to be consistent with the needs identified by grantees and with the recommendations of the Advisory Committee on Head Start Quality and Expansion. In particular, several commenters commended the increased emphasis on parent involvement in mental health. Commenters also supported the proposed standards' listing of the mental health services to be provided. On the other hand, commenters expressed significant concern that the level of effort expected from the mental health professional in carrying out these services would be difficult to obtain because of the limited availability of such professionals, particularly in rural areas, and because of the costs of obtaining such services from these professionals.

Our intent in this section is to ensure that parents and staff understand the contribution that mental health services can make to the well-being of each child as well as the role that various individuals, including parents, staff, and mental health professionals, play in this effort. Therefore, we believe that it is important for mental health professionals to be included in program services. We do not mean, however, that mental health professionals must be hired as staff or be physically present on a daily basis. Rather, they must be available to provide services for which State licensing and certification are required, and to advise and make recommendations to grantee and delegate agencies as necessary. We have modified several standards to provide clarification in this area (see the previous discussion in this Preamble on 45 CFR 1304.20(b)(2) and 45 CFR 1304.20(d)).

Cost concerns were raised by commenters relative to the requirement in 45 CFR 1304.20(e) of the NPRM that ongoing assessments be conducted, which they interpreted to mean that the mental health professional must individually observe each child in Early Head Start or Head Start. This was not the intent. We have revised the standard in the final rule (45 CFR 1304.20(d)) to emphasize the need for grantee and delegate agencies to implement procedures to identify new or recurring developmental concerns so that they can quickly make appropriate referrals. However, we leave agencies with the discretion to determine the level of involvement of mental health professionals. We do require, however, in 45 CFR 1304.20(b)(2) of the final rule on developmental, sensory, and behavioral screenings, that ''Grantee and delegate agencies must obtain direct guidance from a mental health or child development professional on how to use the findings to address identified needs.''

Several commenters sought clarification on the level of effort and the costs implied by other requirements in the child mental health section. For example, some asked for a definition of ''a schedule of sufficient frequency'' in 45 CFR 1304.24(a)(2). We will provide information in the Guidance on determining a schedule of frequency most appropriate for meeting local needs. Likewise, some commenters asked if persons other than a licensed or certified mental health professional could perform some of the functions described in order to avoid costs to the agency and to ensure that an individual is available to perform the required services. Since we consider it critical that a licensed or certified individual be available to each program, we continue to require the services of mental health professionals. We encourage agencies to augment the services of mental health professionals with non-certified and non-licensed individuals as long as the functions these individuals serve are consistent with State licensing and certification requirements. In the Guidance, we will describe arrangements that demonstrate ways to make use of non-certified and non-licensed individuals in order to augment the services of mental health professionals. For example, some parent education and teacher consultation may be performed by non-certified or non-licensed individuals.

In response to the standard requiring agencies to utilize community mental health resources, 45 CFR 1304.24(a)(3)(iv), many commenters indicated that such services either do not exist in their communities or do not address Early Head Start and Head Start's needs. Commenters strongly recommended that Early Head Start and Head Start agencies work with other community agencies serving children and families (e.g., child care or early childhood special education agencies) to develop and sustain family-centered services in their community. Although we agree with these comments, we have

not changed this requirement. Information on partnerships with mental health and other family support agencies in order to address mental health service needs will be provided in the Guidance.

Subpart C—Family and Community Partnerships

Section 1304.40 Family Partnerships

Overall, the comments regarding the new Family Partnerships section expressed strong approval for the philosophy of supporting families to foster their child's development and assisting families to attain their personal goals. The comments made clear that the development of family partnerships is not a new activity for many Head Start grantee and delegate agencies, and that there are a variety of models and experiences which can be drawn upon in formulating successful partnerships. We have made every effort to allow for local program flexibility in the implementation of these standards.

Many of the commenters identified areas requiring clarification or further guidance on exactly ''how to'' implement particular standards. The need for enhanced training and resources was echoed throughout the comments. In response, minor revisions were made to several of the standards to improve their clarity. For most of the standards, however, additional information will be provided in the Guidance.

Several commenters expressed concern about the term ''assessment'' in the title of 45 CFR 1304.40(a) in the NPRM. As indicated by their comments, the term has many connotations and was understood by some to identify a particular process for determining family strengths and needs. This was not the intent. Rather, the new standard was designed to give grantee and delegate agencies the flexibility needed to develop their own strategies for working with a diverse group of families. However, in response to these concerns, the language in 45 CFR 1304.40(a) has been changed from ''Assessment and goal setting'' to ''Family goal setting.'' To further strengthen the concept that grantee and delegate agencies must develop strategies that suit the interests, needs, and circumstances of the families that they serve, the language in 45 CFR 1304.40(a)(1) has been expanded to state that the process ''must take into consideration each family's readiness and willingness to participate in the process.'' The new term to describe the document jointly created through this process is the Family Partnership Agreement, which replaces the current standard related to conducting a family needs assessment.

Other commenters suggested that the language in several of the standards in 45 CFR 1304.40(a) conveys the sense that Early Head Start or Head Start staff are setting goals ''for'' families rather than ''with'' families. In order to strengthen the notion of partnerships, the language in several standards has been slightly modified. In 45 CFR 1304.40(a)(2), for example, the language has been changed from ''assist parents'' to ''offer parents opportunities.'' Other similar changes were made throughout this section. We have also added language in 45 CFR 1304.40(a)(2) that further clarifies the role of parents and staff in home-based programs in the development of Family Partnership Agreements.

Commenters supported the increased coordination with families and other community agencies to avoid duplication between the Family Partnership Agreement and other preexisting family plans as required in 45 CFR 1304.40(a)(3). However, many raised issues related to confidentiality, timeliness, and the willingness of community agencies to share such information. Although we recognize that these constraints may exist and that partnerships cannot be mandated, we do expect agencies to find ways to develop partnerships, even with less willing partners, and to establish alliances that will provide the desired results over a period of time.

Commenters questioned the new requirement in 45 CFR 1304.40(b)(1)(i) that agencies directly provide emergency or crisis assistance to families as well as the possible costs and liabilities associated with the provision of such assistance. For purposes of clarity, we deleted the words ''including such direct interventions as the provision of,'' and added ''in areas such as.'' We emphasize that this standard, as revised, reflects our long-standing view that grantee and delegate agencies should continue to develop partnerships and to link families to existing community resources in order to address emergency or crisis assistance needs. We believe that this intent is further clarified if the standard is read in conjunction with the preceding language of 45 CFR 1304.40(b)(1).

Several commenters questioned which pregnant women are covered under 45 CFR 1304.40(c). These standards are limited to pregnant women enrolled in Early Head Start programs. However, we expect that all pregnant women, those in Early Head Start as well as those in Head Start, will be provided with opportunities to learn about the principles of health and wellness as articulated in 45 CFR 1304.40(f)(2)(iii).

Many commenters responded favorably to the expanded integration of parent involvement throughout the standards and especially to its emphasis within the section on Family Partnerships. Other comments regarding parent involvement raised several concerns. One concern focused on the issue surrounding parent involvement activities for parents who are working or who are in training and are not able to spend time in their child's classroom. Many grantee and delegate agencies have faced this situation for some time, and have developed an array of methods to involve parents in less traditional ways. Given the shift towards increased workforce participation for the parents of young children, agencies are expected to offer parent participation opportunities to all interested family members, both men and women, in a sufficiently varied manner that enables them to participate. We recognize the added challenges of encouraging parents to participate. However, we believe that 45 CFR 1304.40 (d)–(f) encourage grantee and delegate agencies to broaden their vision about how to develop and implement meaningful parent involvement opportunities. Additional discussion will be included in the Guidance.

In response to several comments that encouraged us to support a wide range of parent involvement opportunities, we have changed the language in 45 CFR 1304.40(d)(1) from ''must provide parent involvement and education activities that are responsive to the ongoing and expressed needs of the parents themselves'' to ''must provide parent involvement and education activities that are responsive to the ongoing and expressed needs of the parents, both as individuals and as members of a group.''

The parent involvement standards include the requirement in 45 CFR 1304.40(e)(3) that grantee and delegate agencies provide, either directly or through referrals, opportunities for children and families to participate in family literacy services in accordance with Section 641(4)(c)(i) of the Head Start Act, as amended. Although a few commenters indicated that providing such services would result in a financial burden, the majority made no mention of additional costs or concerns surrounding this requirement. We interpreted this to mean that the funding received by grantee and delegate agencies for family literacy,

which is now part of their basic grants, covers costs related to this service; and that resources for family literacy activities are available in most communities, and that grantee and delegate agencies expect to be able to work with community providers to support family literacy efforts.

Commenters raised questions about the requirements of 45 CFR 1304.40(e)(4) and 45 CFR 1304.40(i)(2) regarding the relationship between staff-parent conferences and teacher home visits. These standards require a minimum of four parent contacts (two home visits and two staff-parent conferences) throughout the program year. To clarify this intent, and to emphasize the importance of contacts between education staff and parents, a new standard was added in 45 CFR 1304.21(a)(2)(iii) which encourages parents to participate in staff-parent conferences and home visits to discuss their child's development and education. In addition, language was added to 45 CFR 1304.40(i)(2) to emphasize the importance of other staff making or joining home visits, as appropriate. Other clarifying information on this topic will be provided in the Guidance.

Numerous commenters on 45 CFR 1304.40(g)(1)(ii) proposed that the provision of a comprehensive community resource list to parents be mandatory, rather than being provided ''when available.'' We have revised the standard to require that agencies ''establish procedures to provide families with comprehensive information about community resources'' in order to better reflect the intent that providing families with such information is a cornerstone of parent involvement activities.

The requirement at 45 CFR 1304.40(h)(2) to conduct staff-parent meetings to support transition services in accordance with section 642(d)(4) of the Head Start Act, as amended, raised concerns among some commenters, particularly related to the timing of these meetings at the end of children's participation in the program. We expect that, throughout the program year, parents will be provided with opportunities to expand their knowledge about community services and resources and to develop networks and relationships with families, service providers, community agencies, and school systems. Therefore, the standard has been retained as proposed.

Commenters expressed their support for the acknowledgment that home visits may present safety hazards for staff in 45 CFR 1304.40(i)(4). However, we want to emphasize the importance of home visits occurring in the home setting to the extent possible in order to maximize the personal interaction of the parent, child, and program staff, and we will further address the topic of home visits in the Guidance.

Section 1304.41 Community Partnerships

Many of the comments on the new Community Partnerships section strongly endorsed the focus on community planning, cooperation, and information sharing in order to improve the delivery of community-based services to children and families. The standards on parent involvement in transition services in 45 CFR 1304.41(c) also generated favorable comments. While a number of commenters stated that cultivating alliances with other community agencies and service providers takes time and persistence on the part of Early Head and Head Start grantee and delegate agencies, a significant number indicated that they have already embraced this process, and that the families they serve are reaping the benefits of these partnerships. Many of the comments included practical information on successful efforts to build such partnerships. This information will be integrated into the program Guidance.

While the comments were generally positive, two important concerns with respect to the development of community partnerships emerged. First, one group of commenters expressed concern about the likelihood of success in developing community partners, as required in 45 CFR 1304.41(a), citing the competition for scarce resources and local obstacles, both of which have prevented cooperation in the past. As the development of community partnerships is now a requirement, concerns around monitoring issues were also expressed. Specifically, many commenters stated that grantee and delegate agencies, by themselves, cannot make parents and communities receptive to partnerships.

We recognize that fostering and building partnerships is an activity that occurs over time and will require differing levels of effort for Early Head Start and Head Start grantee and delegate agencies. However, we firmly believe that these agencies have both the responsibility and the capacity to provide leadership in their communities to promote access to services that will enhance the well-being of families and children. While the standards do set high expectations for agencies, they also provide the flexibility needed to respond to a wide variety of circumstances. We are confident that each agency can demonstrate progress in this area, recognizing that, for some, partnerships will develop more slowly than for others. Therefore, the intent of 45 CFR 1304.41(a) remains unchanged. We will support agencies in these efforts by providing program Guidance and training for staff in the area of developing partnerships.

The second overarching theme that was raised is the need for additional resources, both staff time and training, to support the development of community partnerships. The commenters stressed that cultivating relationships with a variety of agencies and organizations requires time to make telephone calls, to attend meetings, and to share ideas. While this move toward a greater emphasis on community partnerships may require an initial shifting of responsibilities and scheduling for staff in some agencies, we expect that, over time, this effort will become an integral and routine part of agency operations. The standards provide agencies with a great deal of flexibility in deciding how to undertake this effort. We are also providing additional funds for transition coordination. With these additional resources and targeted training, we expect that every agency will be able to meet these standards.

The remaining comments about the Community Partnerships section addressed specific standards. For example, 45 CFR 1304.41(a)(2) contains a list of community agencies and service providers with which Early Head Start and Head Start agencies must take steps to establish ongoing relationships. The commenters, while supportive of the proposed list, provided many potential additions. We believe that the list of potential partners provided in the NPRM represents a core set of resources that will be found in most communities. In developing this list, we attempted to create a balance between articulating a range of entities representing a possible complement of community partnerships and not causing a burden on agencies located in areas that lack supports. Agencies are encouraged to expand upon this list. We have made one addition to the standard, namely ''businesses,'' in order to include another important community partner (45 CFR 1304.41(a)(2)(ix)).

Commenters questioned the rationale for mandating a Health Services Advisory Committee in 45 CFR 1304.41(b), while making other Service Area Committees voluntary. We structured the standard in this manner to minimize regulatory burden and to ensure flexibility for local grantee and delegate agencies. A Health Services

Advisory Committee is required in the current regulation. We have maintained this requirement because our experience indicates that the Committee plays an important role in helping grantee and delegate agencies access needed health services for Head Start children and families as well as in ensuring that agency health and safety practices are consistent with the most current information available from the health fields. We support the importance of grantee and delegate agencies structuring and operating additional Advisory Committees should they feel the need to do so.

Commenters also requested clarification about the transitioning of Early Head Start children and how to plan for the next level of service. Therefore, to provide the greatest degree of flexibility possible for the program and the family, and to allow for adequate advance time for consideration of potential alternate placements, a new standard, 45 CFR 1304.41(c)(2), has been added which describes the transition planning process. We received a few comments about the information collection requirements regarding the building of partnerships in the community in 45 CFR 1304.41. Commenters supported the partnership building process, but were unsure about how to document it. In response, language was added to 45 CFR 1304.41(a)(1) to state that programs should document ''the level of effort undertaken to establish community partnerships.'' This language also responds to the concerns expressed by some commenters about situations where community planning efforts are not supported by other community groups. This requirement gives agencies a chance to document their ongoing efforts, which may not always be successful.

Subpart D—Program Design, Design and Management

Section 1304.50 Program Governance Standards

Commenters stated that the proposed standards in the Program Governance section more clearly outline the structure, responsibilities, and roles of the governance structure within Early Head Start and Head Start than do the existing standards. In addition, they supported the greater focus in these standards on parent decision-making responsibilities which broaden and increase the linkages between the governance structures. Commenters also approved the renaming of ''Center Committee'' to ''Parent Committee'' in 45 CFR 1304.50(a)(1)(iii), viewing this change as reflecting consistency among all of the program options, since a ''Parent Committee'' must exist regardless of the program option. Many positive comments focused on the increase to 51 percent representation of parents of currently enrolled children on the Policy Councils and Policy Committees (45 CFR 1304.50(b)(2). Many said that this requirement maintained the intent and philosophy of Head Start.

Commenters also expressed a number of concerns about the governance section as a whole. First, a general sense of confusion existed about the role of the Parent Committee as a policy-making body because the proposed standards erroneously implied that Parent Committees have formal policy-making authority. Parent Committees are part of the shared decision-making governance structure and perform a number of functions, including planning with staff and providing input regarding program decisions. They also provide leadership in electing Policy Council representatives to perform policy-setting tasks. To address the concerns, we changed 45 CFR 1304.50(a) from ''Policy group structure'' to ''Policy Council, Policy Committee, and Parent Committee structure.''

Second, nearly all of the commenters were critical of giving Early Head Start and Head Start programs the latitude to determine term limits for Policy Council and Policy Committee members (45 CFR 1304.50(b)(5)). The intent was to provide greater flexibility to local agencies than exists in the current standards. However, many commenters felt that term limits were necessary because of the benefit they provide to the parents and the program. In response to the overwhelming comments that membership on the Policy Council or Policy Committee should be limited to a combined total of three one-year terms, we have restored this requirement.

In § 1304.50(b)(7) the word ''adequately'' was changed to ''proportionally'' for clarification purposes. Grantee and delegate agencies operating programs with more than one program option are expected to ensure that there is sufficient representation from each option on the policy groups and for establishing a ratio of representation on the Policy Council or Policy Committee that is proportionate to the relative size of each of the program options.

A final area of concern raised by many commenters related to ''Appendix A: Policy Group Responsibilities.'' Appendix A, as proposed in the NPRM, attempted to resolve some long-standing misunderstandings about the chart in Appendix B to the current Program Performance Standards, most commonly known as 70.2. In the proposed Appendix A, we omitted the columns for the Executive Director and the Early Head Start or Head Start Director to emphasize and depict the roles and responsibilities within the governance structure. However, in response to the overwhelming recommendations from commenters, we have reconfigured Appendix A to include columns for key management staff responsibilities in order to emphasize the linkages and partnerships between the policy groups and the management staff of Early Head Start and Head Start programs. In order to build strong partnerships when there is a shared decision-making structure, it is essential that the roles and responsibilities of each entity be clearly understood. However, we want to emphasize that it is the responsibility of each agency's governing body to establish the role of the agency director and to participate with the Policy Council or the Policy Committee in setting the direction for the Early Head Start or Head Start director's role in managing the day-to-day operations of the program.

To underscore and support linkages and partnerships among the governance functions and the management staff functions, we have made several changes in Appendix A. First, we retitled the chart ''Governance and Management Responsibilities.'' Secondly, we cross-referenced applicable standards to the functions listed in Appendix A. Third, we added cross-references to appropriate standards in 45 CFR Part 1304.51, Management Systems and Procedures, and in 45 CFR part 1301, both in the standards and in Appendix A. Fourth, as stated above, two columns have been added to the chart regarding the roles and responsibilities of key management staff and how they relate to the governing bodies and policy groups of Early Head Start and Head Start programs. In some cases, we consolidated similar functions to improve clarity and avoid repetition. Fifth, we added a new standard, 45 CFR 1304.50(g)(2), to the body of the regulation. Previously, this requirement was presented only in Appendix A. This new standard clearly outlines the responsibility of grantee and delegate agencies to ensure that there are appropriate internal controls established and implemented to safeguard Federal funds, in accordance with 45 CFR 1301.13. In addition, to further

underscore the importance of the oversight functions of the grantee or delegate agency governing bodies, 45 CFR 1304.50(d)(1)(ix) was added. It cross-references 45 CFR 1301.12, which requires each Early Head Start and Head Start program have an annual independent audit.

In order to underscore linkages and partnerships between governance structures and management staff, we removed the word ''help'' from 45 CFR 1304.50(d)(1) and added the language ''* * * work in partnership with key management staff and the governing body to develop, review, and approve the following policies and procedures * * *'' A number of commenters recommended changing the word ''agency'' to ''program'' in 45 CFR 1304.50(d)(1)(iv), and we have done so in order to more closely match the corresponding standard in Management Systems and Procedures, 45 CFR 1304.51(a)(1)(ii). The standard now reads, ''The program's philosophy and long- and short-range program goals and objectives.''

In many instances, commenters requested more specific language in the standards. For example, in response to the comments received, we added more stringent language in 45 CFR 1304.50(b)(6) which excludes staff of grantee and delegate agencies and members of their immediate families from participating on policy groups. We also added language to limit exclusions of Tribal staff.

Commenters also recommended several changes or additions in wording to increase clarity. For example, commenters found the requirement that community representatives ''* * * provide resources and services to low-income children and families'' in 45 CFR 1304.50(b)(4) in the NPRM to be unduly restrictive of community membership, and stated that it posed a potential conflict of interest for community members. We agree, and have changed the language in 45 CFR 1304.50(b)(3) in the final rule to individuals who are ''* * * familiar with resources and services for low-income children and families'' in order to broaden the pool of potential community representatives. Several commenters suggested that a definition be provided for ''parents of currently enrolled children'' and, in response, we have cross-referenced the definition of ''Head Start parent'' in 45 CFR 1306.3(h) in 45 CFR 1304.50(b)(2) in the final rule. A few commenters called our attention to the incorrect inclusion of the term ''indirect cost rates'' in 45 CFR 1304.50(d)(1)(i). We have replaced this term with ''administrative services,'' which more accurately reflects the intent in this standard.

Finally, commenters suggested adding language to 45 CFR 1304.50(d)(1)(x) to clarify which staff hirings or terminations the Policy Council or Policy Committee can review and approve or disapprove. We have created two standards to increase clarity. The first standard, 45 CFR 1304.50(d)(1)(xi), addresses decisions related to the hiring or termination of the Early Head Start or Head Start director. The second standard, 45 CFR 1304.50(d)(1)(xii), relates to the hiring or termination decisions regarding other Early Head Start or Head Start staff. A few commenters also questioned the legality of Policy Councils and Policy Committees being involved in hirings or terminations because it might violate employees' rights to privacy. We believe that the procedures, when properly implemented, will ensure that staff rights are protected.

Section 1304.51 Management Systems and Procedures

In general, there was strong support for the addition of a new section on management systems and procedures, since it added standards in areas that are critical to program quality but which are not addressed explicitly in current Head Start regulations. Commenters suggested that having all of the standards on management systems and procedures in one place would facilitate program implementation. Many commenters stressed that strong systems are essential to maintaining quality in Early Head Start and Head Start programs. They particularly liked the standards on planning and communication, stating that they were well written and clear. Where commenters suggested changes, they generally requested wording changes to help clarify a standard, rather than significant changes.

Overall, there was strong support for addressing planning in the standards and for the clarity of the language and intent of 45 CFR 1304.51(a) on program planning. There were, however, a few requests to change or clarify wording, including a recommendation by several commenters to change the term ''Community Needs Assessment'' to ''Community Assessment.'' They felt the latter term is more inclusive, taking into account community strengths and assets as well as needs. We agree with this recommendation, and have changed the term to ''Community Assessment'' in this section. Conforming changes also were made in 45 CFR 1305.3.

We invited comments in the NPRM on whether the standards in 45 CFR 1304.51(g) should require that record-keeping systems be supported by appropriate computer technology, and whether such a requirement would pose an unreasonable burden for agencies. Most commenters, while supporting the use of computer technology as a cost-efficient means of enhancing the accuracy and timeliness of record-keeping functions, thought that computerized record-keeping should not be required. Most said that such a requirement would place an undue financial burden on local programs, unless they received additional funding for computers, computer software, additional training for staff, additional support staff to enter data, and technical support. Such support would be needed, as many agencies, particularly small and rural ones, lack the infrastructure and funding to support computer technology. In response, we have not added language that would require record-keeping systems to utilize computer technology. In the Guidance, however, we intend to encourage grantee and delegate agencies to use technology to more efficiently manage records and other program information.

Some commenters noted that we did not address the confidentiality of records in 45 CFR 1304.51(g). We agree that this concern should be addressed, and have added language in the final rule stating that grantee and delegate agencies must ensure the ''* * * appropriate confidentiality of * * * information'' contained in the records.

We received many supportive comments on 45 CFR 1304.51(i), program self-assessment and monitoring. Commenters expressed support both for the description of self-assessment as a process for program improvement, rather than as one to address compliance issues only, and for the addition of language in the standard related to effectiveness and progress in meeting grantee-specific program goals and objectives. There were some requests for clarifications of the wording used. Commenters thought, for example, that the language in 45 CFR 1304.51(i)(1) requiring that self-assessments be conducted ''in consultation with other community agencies'' was confusing, particularly since the standard also states that the self-assessment must be conducted ''with the consultation and participation of policy groups.'' In response, we have slightly reworded the standard, while retaining the intent of involving community agencies in the self-assessment process.

Commenters noted that 45 CFR 1304.51(i)(2) called for monitoring the

program operations of delegate agencies, but not those of grantees. In response, we have clarified that grantees must monitor their own Early Head Start or Head Start program operations as well as, in the case of Head Start, those of each of their delegate agencies, since it is the intent of this standard that Early Head Start and Head Start grantees ensure that high quality services are being delivered in their own programs as well as by Head Start delegate agencies.

Several commenters took issue with the fact that, in 45 CFR 1304.51(i)(3), we state that the grantee must inform the delegate agency governing body of any deficiencies that are identified in the review of delegate agency performance. They thought it inappropriate to inform the governing body before staff have an opportunity to correct a problem. We did not change this standard, since the governing body of a grantee or delegate agency is ultimately responsible and accountable for ensuring that all Head Start regulations are met.

Section 1304.52 Human Resources Management

Overall, there was considerable support for the proposed Human Resources Management standards, particularly in the areas of qualifications for the Early Head Start or Head Start director and a number of other staff positions, training and development, staff performance appraisals, and standards of conduct. Commenters agreed that the increased emphasis on these areas would directly promote improved program quality. Criticism focused on: Organizational structure and management roles; staff qualifications and availability for some staff positions; staff and volunteer health; staffing patterns; and staff training and development. Each of these issue areas is discussed in turn below.

Some commenters felt that the proposed standard at 45 CFR 1304.52(a)(1) on organizational structure did not give sufficient flexibility to programs in designing their own organization and in developing staff positions. However, after reviewing the standard in light of these comments, we have concluded that it does not need to be changed, because the original standard is written to provide the flexibility the commenters desired. This standard requires that agencies adopt an organizational structure that will suit their own individual needs while addressing the management functions contained in the standards, but it does not, and is not intended to, require any specific organizational structure. We agree fully with commenters that individual programs are organized very differently to meet the particular needs of the children and families they serve.

Commenters also found the proposed standards on program management roles at 45 CFR 1304.52(a)(1), 45 CFR 1304.52(a)(2), and 45 CFR 1304.52(b)(2) confusing, and we have tried to address these concerns. One area of confusion related to whether the management roles specified in 45 CFR 1304.52(a)(2) were different from the positions identified in 45 CFR 1304.52(c) (2)–(5) (45 CFR 1304.52(d) in the final rule) regarding management staff qualifications. We have made several changes to reduce this confusion. First, we have substituted the term ''functions'' for ''roles'' in 45 CFR 1304.52(a)(2) to clarify that we are only requiring that the expertise to perform these management functions exist somewhere within each agency. How and to what extent an agency provides for this expertise in its organizational structure is dependent upon its needs. In many cases, agencies will choose to divide each of the responsibilities, or functions, listed among more than one program manager. Second, we deleted the list of positions at 45 CFR 1304.52(b)(2) in the NPRM since it was confusing, and was intended only to reference other positions that might be regulated in this Part or in 45 CFR Part 1306.

With regard to 45 CFR 1304.52(b)(3) concerning the employment of current and former Head Start parents, the NPRM stated that parents ''* * * must receive preference for employment vacancies if they are well qualified.'' Most commenters suggested that the word ''well'' be eliminated, since it is a subjective term that is difficult to define and might discourage agencies from considering parents for many positions. We agree with this concern, and have made this change. We have also added Early Head Start parents to this standard.

Finally, 45 CFR 1304.52(c), which addresses management staff qualifications, now only includes qualifications for the Early Head Start or Head Start director. A number of commenters noted that limiting the director's training and experience to the areas of early childhood or human services program management is too restrictive, and that management skills and abilities are critical qualifications for this position. Therefore, we have changed the language in the standard to state that the director must have ''* * * demonstrated skills and abilities in a management capacity relevant to human services program management.''

The remainder of 45 CFR 1304.52(c) in the NPRM has been reorganized as 45 CFR 1304.52(d) in the final rule and retitled ''Qualifications of Content Area Experts,'' since it refers to staff or consultant positions related to individual program content areas. We have also substituted the term ''supported by'' for ''managed by'' to highlight that staff or consultants who provide the necessary content area expertise to an agency do not necessarily have to be designated as managers. We do, however, expect these individuals to provide expertise and oversight in activities such as planning, service delivery and staff training and development.

A major concern raised related to the specific kinds of staff qualifications that are proposed for certain managerial positions, such as health, nutrition, and mental health. Many commenters were concerned that, particularly in rural areas, staff who meet the proposed qualifications for these positions may not be available. A secondary concern was the impact that the proposed qualifications might have on current staff, who do not possess the proposed qualifications for the roles they are currently performing.

In addressing these concerns, we tried to balance our commitment to program quality, as suggested by the Advisory Committee on Head Start Quality and Expansion, with our commitment to providing maximum flexibility to grantee and delegate agencies. On the one hand, we want to ensure that staff are well qualified to perform their work with children and families, since the quality of staff has a direct bearing on the quality of an Early Head Start or Head Start program and the services it provides. On the other hand, we tried to ensure that the new standards are sufficiently flexible to allow agencies both to look outside their programs for needed expertise and to provide current employees time to obtain the additional training that they will need. For example, in the new standard at 45 CFR 1304.52(d), we added language that allows for the use of consultants on a regularly scheduled or ongoing basis in agencies where staff do not possess the expertise to provide the content expertise or oversight roles in education and early childhood development, health, nutrition, mental health, family and community partnerships, parent involvement, disabilities services, and fiscal services.

In addition, in response to the comments received, we have provided greater flexibility with regard to two of the specific oversight roles listed in the new 45 CFR 1304.52(d). In the area of

nutrition, we have deleted the reference to full-time personnel, since commenters pointed out that it is inconsistent with other standards in this section. In response to the comments, and in consultation with our colleagues in other agencies, we believe that nutrition services must be supported on at least a regularly scheduled consultant basis by registered dietitians or nutritionists. However, the Guidance will clarify how other professionals, such as Certified Dietary Managers, may be used to help support nutrition services as well. In the new 45 CFR 1304.52(d)(8), we dropped the requirement that the fiscal officer possess ''Certified Public Accountant or other appropriate credentials,'' since many commenters raised the issue of cost regarding this requirement. However, even though it might entail additional costs to agencies, we still require that fiscal officers be ''qualified'' to perform their responsibilities, since this is a critical area in ensuring program quality. In some cases, agencies may decide that a CPA provides the most appropriate qualifications for their particular program.

We believe that the persons providing expertise and content oversight in the program areas listed in 45 CFR 1304.52(d)(1)–(8) must have the broad kinds of training, experience, and license or certification specified, since their jobs require them to provide direction to and input into program planning and service delivery, as well as training and other developmental activities to staff in program content areas who are working directly with children and families. Therefore, we have left the kinds of training and experience listed largely unchanged for each of the oversight roles. However, we decided not to define what ''training and experience'' means in regulation, in the interest of allowing maximum flexibility for grantee and delegate agencies. We will provide examples of best practice with regard to training and experience in the program Guidance.

Finally, many commenters asked if there would be opportunities for current staff who do not meet the qualifications required in this Part to remain in their positions through provision of a ''grandfather clause.'' Although we have not chosen to provide such language in the final rule, we note that the effective date at 45 CFR 1304.2 by which agencies must implement the new rule has been extended to January 1, 1998. This will provide each agency with the opportunity to review the qualifications of its current staff and to assist staff in obtaining the necessary additional training, where appropriate. In addition, as previously mentioned, the needed expertise can also be obtained through regularly scheduled program consultants.

The Preamble to the NPRM stated that § 1304.52(f) cross-referenced the requirements in section 648A of the Head Start Act. Our intent was to require the Child Development Associate (CDA) or equivalent credential for Early Head Start teachers and other staff working as teachers of infants and toddlers as well as for regular Head Start teachers. Some commenters indicated that our language did not clearly convey this intent. We therefore have revised this standard to make clear that the staff working as teachers of infants and toddlers are required to obtain the Child Development Associate or equivalent credential.

Most of the commenters agreed that it was important to have qualifications for infant and toddler staff to ensure program quality, and many specifically supported the proposed requirement in 45 CFR 1304.52(f) that staff working as teachers have the CDA or an equivalent credential. However, there were some concerns. First, commenters found the use of the term ''caregiver'' ambiguous, confusing and, for some, ''unprofessional.'' Second, a number of commenters expressed confusion as to which classroom staff would be required to obtain CDAs or equivalent credentials, with some commenters suggesting that we set a minimum standard for all classroom staff. Third, concern was expressed that we needed to provide a reasonable period of time for staff to earn their CDA or equivalent credential. Finally, some commenters felt that insufficient detail was provided regarding the training and experience necessary for infant and toddler staff.

In response to these comments, we have changed, as discussed in the section in this Preamble related to 45 CFR 1304.3, the term infant and toddler ''caregiver'' to ''teacher.'' In response to the second issue described above, we have modified § 1304.52(f) to indicate that all staff working as classroom teachers, including those working as teachers of infants and toddlers, are required to obtain CDAs or equivalent credentials. We did not, however, prescribe a minimum standard for all classroom staff, because we believed that it would impede the ability of some programs to hire staff from the communities they serve and to provide career development opportunities for parents and former parents of program children. With regard to the third issue, we have revised the standard to indicate that current teachers of infants and toddlers must obtain a CDA credential or its equivalent within one year of the January 1, 1998, effective date of the final rule. We believe that this will provide sufficient time for infant and toddler teachers to obtain the necessary credentials. Finally, we have amended § 1304.52(f) to require that Early Head Start staff or other staff working as teachers of infants and toddlers must obtain a specific CDA credential for infant and toddler caregivers or an equivalent credential that addresses comparable competencies. In our Guidance to the field, we will provide examples of appropriate training and experience for staff working with infants and toddlers.

In response to commenters' requests, we have added a new standard at 45 CFR 1304.52(e) regarding home visitor qualifications. This standard does not require specific academic training, certification or licensure, because of the many different kinds of backgrounds that could be appropriate. Instead, it requires that home visitors have knowledge and experience in key areas related to child and family growth and development.

Many commenters supported the standard at 45 CFR 1304.52(i)(1) (45 CFR 1304.52(j)(1) in the final rule) requiring initial health examinations and periodic re-examinations for staff, since they believe that this standard will safeguard the health and wellness of Early Head Start and Head Start children and families as well as staff. However, there were some concerns about requiring health examinations for all staff, rather than just for those with direct contact with children. We have decided that it is important to retain the requirement that all Early Head Start and Head Start staff receive health examinations, as each staff member is a model for enrolled families.

Many comments addressed the standard at 45 CFR 1304.52(i)(2) in the NPRM (45 CFR 1304.52(j)(2)) in the final rule) regarding the screening of volunteers for tuberculosis. First, some commenters felt that we were being inconsistent in requiring tuberculosis screening for volunteers in 45 CFR 1304.52(i)(2) of the NPRM, but not requiring such screening for staff in 45 CFR 1304.52(i)(1). We agree with this concern, and have added a requirement for the tuberculosis screening of staff to this standard (45 CFR 1304.52(j)(1) in the final rule) to clarify our previous intent that this screening be included in health examinations for all staff.

Second, many commenters felt that whether volunteers were screened for tuberculosis should depend on State and local health department regulations;

others felt that this would be an appropriate issue to take before their Health Services Advisory Committee. Because the prevalence of tuberculosis varies considerably among communities, we agree that State and local health requirements should be followed, and that input should be sought from the Health Services Advisory Committee. Therefore, the standard, as revised (45 CFR 1304.52(j)(2) in the final rule), now states that ''volunteers must be screened for tuberculosis in accordance with State, Tribal, and or local laws.'' In the absence of any such laws, we have required that the Health Services Advisory Committee make recommendations about tuberculosis screening for volunteers.

Other commenters wanted a clearer definition of a volunteer, and questioned whether the term included parents. If volunteers were to include parents, many respondents felt that this standard would have a negative impact on parent involvement. Others felt that the screening requirement should only apply to ''regular'' volunteers, and not to ''one-time'' or ''occasional'' volunteers. Many felt that, if the screening were required of all volunteers, it would reduce their numbers and, ultimately, impact on the agencies' non-Federal share. We agree that tuberculosis screening should apply only to regular volunteers, and not to parents who might drop in to a center to visit or to the fire chief who comes in to discuss fire prevention week. As a result, we have added the word ''regular'' before the term ''volunteer'' in the standard, and have cross-referenced the term ''volunteer'' to the definition in 45 CFR 1304.3(a)(20) in the final rule.

Many commenters commended the Head Start Bureau for addressing the mental health and wellness concerns of staff at 45 CFR 1304.52(i)(3) (45 CFR 1304.52(j)(3) in the final rule), but felt that this standard could be very costly to implement. Further, they asked for clarification on how agencies could ''assist staff'' in addressing their mental health and wellness concerns. As a result of these comments, we have substituted the phrase ''* * * make mental health and wellness information available to staff'' for the words ''assist staff'' to reduce cost and to provide greater clarity. The Guidance will provide further details about the kinds of information that agencies could provide to their staff.

Commenters supported the inclusion of the section on staffing patterns (45 CFR 1304.52(j) in the NPRM and 45 CFR 1304.52(g) in the final rule), but raised several concerns, particularly regarding the terminology used. To address these concerns, we have made several changes. First, for the sake of clarity, we changed the title of this section to ''Classroom staffing and home visitors.'' Second, we substituted the term ''group'' for ''room'' in 45 CFR 1304.52(g)(4) in order to be consistent with 45 CFR 1306.20. We have not changed 45 CFR 1304.52(j)(2) (45 CFR 1304.52(g)(2) in the final rule) regarding multi-lingual staff or 45 CFR 1304.52(j)(3) (45 CFR 1304.52(g)(3) in the final rule) regarding the use of substitutes, despite requests for changes from some commenters. With reference to the first standard, we feel that it would be too costly to require agencies to ensure that teachers or paid aides speak the languages of every child in the classroom. In addition, 45 CFR 1304.52(b)(4) safeguards the goal of best practice by requiring that staff and program consultants be able to communicate, to the extent feasible, with children and families with no or limited English proficiency. With reference to 45 CFR 1304.52(g)(3), while we recognize the cost burden that the use of substitutes may pose for agencies, we believe that substitutes have always been encouraged in practice and are critical to maintaining high standards of program quality.

Most commenters were strongly supportive of the new section on staff training and development at 45 CFR 1304.52(k). Although few specific changes to the language of this section were suggested, some commenters questioned why only two training topics were specifically mandated in 45 CFR 1304.52(k)(3). In response, we did not wish to limit agency flexibility by mandating a specific list of training topics, and the two areas listed are specifically required by the 1994 Amendments to the Head Start Act. With regard to 45 CFR 1304.52(k)(4), some commenters stated that it would be unrealistic to provide training to some governing bodies, particularly when they are school boards or university boards of regents. In response to these concerns, we clarified the language to require the provision of ''* * * training or orientation to Early Head Start and Head Start governing body members. Agencies must also provide orientation and ongoing training to Early Head Start or Head Start Policy Council and Policy Committee members * * *.'' This change recognizes that, although training for governing bodies does not present a problem for most agencies, they may choose to provide a brief orientation as a substitute for training when more comprehensive training is not feasible. On the other hand, we have made it clear that training for policy groups must occur on an ongoing basis in order to ensure that these groups are prepared to meet complex responsibilities as those responsibilities arise.

Section 1304.53 Facilities, Materials, and Equipment

Most of the comments on the Facilities, Materials and Equipment section expressed support for the proposed standards, as they promote excellence in facilities, materials, and equipment. The majority of suggested changes called for additional safety requirements to safeguard the health and well-being of children.

A number of commenters were concerned that the annual safety inspection of a facility's space, light, ventilation, heat, and other physical arrangements required in 45 CFR 1304.53(a)(10) was insufficient to ensure that facilities meet the health, safety, and developmental needs of children. In response, we have clarified that a safety inspection must be conducted ''at least annually.'' We did not establish a more specific timetable for safety inspections, leaving it to the discretion of grantee and delegate agencies to determine the appropriate annual, monthly, weekly or daily inspection schedule for each of the 17 requisite safety checks of local facilities.

As a further response to comments requesting additional emphasis on safety issues, we amended 45 CFR 1304.53(a)(7) to require that ''grantee and delegate agencies must provide for the maintenance, repair, safety, and security of all Early Head Start and Head Start facilities, materials, and equipment.'' We have also amended 45 CFR 1304.53(b)(1)(iii) to require that equipment, toys, materials and furniture owned or operated by the grantee or delegate agency must be ''age-appropriate, safe, and supportive of the abilities and developmental level of each child served, with adaptations, if necessary, for children with disabilities.'' Further, we have reinstated, as 45 CFR 1304.53(b)(1)(vi), the existing standard that requires that equipment, toys, materials and furniture must be ''Safe, durable and kept in good condition.''

A few commenters requested standards on safe surfaces beneath play equipment, an issue that was not addressed either in the current standards for preschoolers or in the NPRM. In response, we have added a new 45 CFR 1304.53(a)(10)(x) requiring grantee and delegate agencies to ensure

that ''the selection, layout, and maintenance of playground equipment and surfaces minimize the possibility of injury to children.''

Commenters also requested the strengthening of 45 CFR 1304.53(a)(8), which requires grantee and delegate agencies to ''* * * provide a center-based environment free of toxins, such as cigarette smoke, pesticides, herbicides, and other air pollutants as well as soil and water contaminants.'' In response to these comments, we have amended the standard to include ''lead'' in the list of examples of toxins from which the center-based environment must be free; and have also specified that agencies must ensure that ''* * * no child is present during the spraying of pesticides or herbicides. Children must not return to the affected area until it is safe to do so.'' In addition, we intend to clarify in the Guidance that the spraying of herbicides and pesticides outside and inside centers poses risks to children and staff and should be minimized to the greatest extent possible.

Another set of comments sought clarification of the proposed standards addressing new safety issues related to services for infants and toddlers. In some cases, we have made minor changes to the language in the standards; in others, we intend to provide further clarification through Guidance. For example, we intend to provide best practice in the Guidance on the new 45 CFR 1304.53(a)(10)(xiv) regarding the precautions that grantees should take to avoid exposing infants and toddlers to E coli bacteria if they locate diapering areas within classrooms. The Guidance will also address requests for additional information on Sudden Infant Death Syndrome (SIDS) and on more general issues related to safe sleeping arrangements for infants and toddlers (45 CFR 1304.53(b)(3)).

A few commenters suggested that the standards include the requirement that all Early Head Start and Head Start facilities, materials and equipment must be accessible to children with disabilities, in accordance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973. This important requirement is found at 45 CFR 1304.53(a)(2), which refers grantee and delegate agencies to 45 CFR 1308.4 for specific access requirements for children with disabilities. Federal requirements for making services accessible in conformance with the Americans with Disabilities Act and 45 CFR Part 84, Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, are described in 45 CFR 1308.4(o)(4) as well as in the Guidance materials accompanying 45 CFR 1308.4(f)(3). Further information on appropriate furniture, equipment, and materials for children with disabilities is provided in 45 CFR 1308.4(f)(4) and 1308.4(o)(6).

Finally, a few commenters noted that additional funding would be needed to bring local facilities into compliance with the standards. However, no individual standard in 45 CFR 1304.53 was singled out as raising significant cost concerns.

Subpart E—Implementation and Enforcement

Section 1304.60 Deficiencies and Quality Improvement Plans

Many commenters were supportive of the section on compliance in the Program Performance Standards, stating that it will ensure that children and families receive quality services and that poorly performing grantee and delegate agencies will not be tolerated as Early Head Start or Head Start providers.

The NPRM described two different negative findings which could result from a review of a Head Start grantee: A determination that the grantee is out-of-compliance with one or more standards or other requirements; or, because of the scope and magnitude of the problem, that the grantee has one or more deficiencies. It also provided two different timeframes in which corrections were to be made, with grantees having up to 90 days to remedy areas of non-compliance and up to one year to correct deficiencies. Many commenters found these distinctions confusing and requested clarification of the terms ''out-of-compliance'' and ''deficiency,'' stating that, as used in the NPRM, these terms are vague and overly broad. Others stated that the differences between the types of determinations that would result in a grantee being found to be out-of-compliance or to be deficient needed to be more clearly delineated.

We have made major changes in this Subpart of the final rule, both to address the concerns raised by commenters and to focus this section more directly on the new provisions at section 641A(d) of the Head Start Act, as amended, regarding the actions to be taken when a grantee is found to have one or more deficiencies.

Additionally, in response to questions raised regarding the wording of 45 CFR 1304.60(a) in the NPRM, we have also clarified that the requirements at 45 CFR 1304.60(a), as well as those at 45 CFR 1304.60(b)-(f) and 45 CFR 1304.61 as revised in the final rule, apply both to Early Head Start and to Head Start grantee agencies. The NPRM, at 45 CFR 1304.60(a) stated that ''Head Start grantee and delegate agencies funded for indefinite periods must comply with the requirements of this part in accordance with the effective dates set forth in 45 CFR 1304.2.'' Commenters questioned whether this wording meant that Early Head Start grantees, which are funded for specific project periods, did not have to comply with the requirements of the Program Performance Standards. This was not our intent. Therefore, we deleted the reference to agencies funded for indefinite project periods in 45 CFR 1304.60(a) and also added the term ''Early Head Start'' at the beginning of the sentence (''Early Head Start and Head Start grantee and delegate agencies must * * *''). We have further added the requirement that Early Head Start grantees will be given the same opportunity as Head Start grantees to remedy identified program deficiencies through, where appropriate, the use of a Quality Improvement Plan.

We have rearranged and revised the paragraphs in 45 CFR 1304.60 and 45 CFR 1304.61 in the NPRM in order to more clearly differentiate between a deficiency and an area of noncompliance as well as the actions that must be taken when a deficiency or an area of noncompliance is identified. As revised, 45 CFR 1304.60 in the final rule relates only to deficiencies, while 45 CFR 1304.61 focuses on areas of noncompliance. The wording of the standards in 45 CFR 1304.60 in the final rule closely parallels the language of the Head Start Act, and relates to the determination and official notification by a responsible HHS official regarding one or more deficiencies and the timeframe in which it is to be corrected (45 CFR 1304.60(b); the submission of a Quality Improvement Plan by the grantee specifying the actions to be taken to remedy each deficiency and the timeframe in which it will do so (45 CFR 1304.60(c); and the approval or disapproval by the responsible HHS official of the grantee's Quality Improvement Plan and the resubmission of the Plan, as required (45 CFR 1304.60(d) and (e)). The paragraph at 45 CFR 1304.60(f) provides that Early Head Start or Head Start grantees which fail to correct a deficiency, either immediately, if required, or within the timeframe specified in the approved Quality Improvement Plan, will be issued a letter of termination or denial

of refunding by the responsible HHS official.

The standard at 45 CFR 1304.60(f) also has been expanded to state that a ''deficiency that is not timely corrected shall be a material failure of a grantee to comply with the terms and conditions of an award * * *.'' This provision is part of the implementation of the requirement at Section 641A(d)(1)(C) of the Head Start Act, as amended, that the Secretary must initiate proceedings to terminate the designation of an agency as a Head Start grantee unless the grantee corrects the deficiency; it also is consistent with past agency interpretation that the failure to comply with any of the Program Performance Standards and other requirements constitutes a material breach of the terms of the grant. The language also further establishes that, since a deficiency, by its nature, materially impairs the accomplishment of program goals, the failure to correct a deficiency in a timely manner will constitute grounds for termination. Additionally, 45 CFR 1304.60(f) clarifies that Head Start grantees may appeal terminations and denials of refunding under 45 CFR part 1303, while Early Head Start grantees may not appeal under 45 CFR part 1303, but must appeal terminations and denials of refunding under 45 CFR part 74 and 45 CFR part 92.

We also have revised substantially the definition of ''deficiency'' at 45 CFR 1304.3(a)(5) in order to clarify the types of determinations which could result in a grantee being found deficient and which, therefore, would have to be addressed either immediately or under a Quality Improvement Plan. Our goal in revising this definition, and particularly in referring to a ''failure to perform substantially'' in 45 CFR 1304.3(a)(6)(i)(C), was to make it clear that a determination that a grantee is out-of-compliance with one or more requirements will not, in and of itself, constitute a deficiency. Rather, these areas of non-compliance must be of a level of significance that results in the failure of the grantee to substantially provide required services or to substantially implement required procedures. As used in the revised definition, the term ''substantially'' does not necessarily mean that a majority of the requirements are not being met but, rather, that a knowledgeable person reviewing the findings would determine that the grantee agency is not operating a quality program.

Additionally, the revised definition at 45 CFR 1304.3(a)(6)(iii) states that ''Any other violation of Federal or State requirements, including, but not limited to, the Head Start Act or one or more of the regulations under Parts 1301, 1304, 1305, 1306, or 1308 of this Title, and which the grantee has shown an unwillingness or inability to correct within the period specified by the responsible HHS official, of which the responsible HHS official has given the grantee written notice of pursuant to 45 CFR 1304.61'' also constitutes a deficiency. The intent here is to underscore that grantees are also expected to correct all areas of noncompliance which have been identified, including those which do not need to be addressed under a Quality Improvement Plan; and, that, if the responsible HHS official determines that the grantee is unable or unwilling to do so within the specified timeframes, the area or areas in which the violations exist become deficiencies, which must then be corrected either immediately or under a Quality Improvement Plan.

We believe that the processes encompassed by 45 CFR 1304.60, as revised in the final rule, will be fully supportive of efforts to improve the quality of Early Head Start and Head Start programs. The requirement that grantees develop Quality Improvement Plans specifying the actions they will take to correct identified deficiencies and the timeframes within which they will do so will enable both agency and Federal staff to focus in a more comprehensive and holistic manner on the improvements that are needed and how they should be addressed.

Commenters also raised other questions related to 45 CFR 1304.60 and 45 CFR 1304.61 in the NPRM. A number of commenters questioned the requirement in 45 CFR 1304.61(d) that deficiencies must be corrected within a period not to exceed 12 months. Some felt that one year was too long, particularly if the deficiency reduced the quality of services being provided or affected the health and safety of children and staff. Others felt that the timeframes should be established on a case-by-case basis or that time periods longer than one year should be allowed, because many problems cannot be resolved within 12 months. A number of commenters also suggested that the timeframe within which a grantee agency must correct a deficiency should start on the date that the Quality Improvement Plan is approved by the responsible HHS official, rather than on the date of official notification of the deficiency. We did not make any changes with respect to the one-year timeframe within which a deficiency must be corrected or the date on which the one-year period begins, as both requirements are established by Section 641A(d)(2)(A)(ii) of the Head Start Act, as amended. In the final rule, these timeframe requirements appear in 45 CFR 1304.60(c). It should be noted, however, that a grantee can be required to correct a deficiency immediately or within less than a 12-month period. Deficiencies which endanger the health and safety of Early Head Start or Head Start children, families and staff, among others, would fall into this category.

Other commenters focused on the monitoring process, requesting that the On-Site Program Review Instrument (OSPRI) be revised to conform with the new Program Performance Standards and released simultaneously with them, or questioning why monitoring was not addressed in this section and who (Federal or peer reviewers) would be involved in the on-site reviews. We are currently conducting an intensive review of the monitoring process, and intend to ensure that it is fully consistent with the revised Program Performance Standards by the time that the standards become effective on January 1, 1998. We also intend to provide extensive training to Federal and peer reviewers on the revised standards. We will continue to conduct a full review of each grantee at least once every three years, with follow-up reviews being conducted as needed.

Finally, a number of commenters stated that additional resources, in the form of training and technical assistance as well as additional funding, would be required to remedy deficiencies to be addressed under Quality Improvement Plans. We did not change the language of this Subpart. As required by section 641A(d)(3) of the Head Start Act, as amended, training and technical assistance will be available in the development and implementation of Quality Improvement Plans. However, the primary financial resources which agencies must draw upon to correct deficiencies are the resources provided through their Early Head Start or Head Start grants.

Section 1304.61 Noncompliance

As revised in the final rule, 45 CFR 1304.61 relates to an area or areas, identified during a review of an Early Head Start or Head Start grantee, in which the grantee is found to be out-of-compliance with Federal or State requirements, including the Head Start Act and regulations, and which, while not of the scope or magnitude to constitute a deficiency, still require correction.

The standard in the final rule is designed to allow for greater flexibility and to reduce paperwork in dealing with areas of noncompliance than did

the processes described in 45 CFR 1304.60 (c) and (d) in the NPRM. Unlike the NPRM, which specified that all areas of noncompliance were to be corrected within a period not to exceed 90 days, the final rule does not establish a specific timeframe in which the corrections are to be made. Rather, the timeframe will be established by the responsible HHS official, based on the type of noncompliance and on his or her knowledge of the circumstances of a particular grantee. The definition of the term ''noncompliance'' (45 CFR 1304.3(a)(15) in the NPRM) has been deleted in the final rule because the definition is incorporated into the revised standard at 45 CFR 1304.61(a).

The standard at 45 CFR 1304.61(b) reiterates that the inability or unwillingness of a grantee to correct an area or areas of non-compliance within the timeframe specified by the responsible HHS official will result in the area or areas of non-compliance becoming a deficiency, to be corrected under the procedures established in 45 CFR 1304.60.

PART 1301—HEAD START GRANTS ADMINISTRATION

Many commenters applauded the addition of the section on personnel policies in 45 CFR 1301.31 to the Program Performance Standards, stating that it was greatly needed and well written. However, a number of other commenters raised concerns about changes from the current requirements that were proposed in the NPRM.

First, many commenters questioned the application of the personnel policies in 45 CFR 1301.31 to volunteers and consultants, since they are not considered employees of the agency. Some stated that consultants often have specific agreements with an agency that may or may not incorporate relevant sections from the agency's personnel policies. Many more commenters were concerned about having personnel policies apply to volunteers. Doing so could mean that volunteers would need a job description, a selection process, and a performance appraisal that would make the process of obtaining volunteers so complicated that people would be discouraged from volunteering. By far the greatest number of critical comments related to the need for criminal record checks for volunteers (45 CFR 1301.31(b)(1)(iii)). While concerns were raised related to conducting such checks for all volunteers, there were special concerns regarding conducting checks for parent volunteers. Commenters were concerned about the impact that this requirement would have on their relationship with parents, and were also concerned that parents would be discouraged from volunteering. Another concern was the cost associated with obtaining criminal record checks for all volunteers. To respond to these concerns, we have eliminated volunteers and consultants from the requirements in 45 CFR 1301.31. These personnel policies will only apply to staff.

The second concern raised by several commenters related to the inclusion of job descriptions in personnel policies (45 CFR 1301.31(a)). Commenters stressed that, while job descriptions should be governed by personnel policies, they should be separate. One reason given by several commenters was that, given the growing number of staff positions in Head Start, it would be cumbersome to submit minor revisions in job descriptions to the Policy Council for its approval each time revisions were made. While we considered these comments, we retained the original language, since we believe that it is appropriate to link position descriptions to personnel policies. However, unless there are significant changes made or new positions added, we do not believe that it is necessary for Policy Councils or Policy Committees to approve minor changes to position descriptions.

Third, commenters suggested that, instead of conducting a criminal record check before an employee is hired, we permit programs to hire staff for a probationary period while the check is being conducted since, in many States, the criminal record check can take several months to complete. We understand that the timing of securing criminal record checks is sometimes beyond the control of an Early Head Start or Head Start agency. To address this concern we added a sentence to 45 CFR 1301.31(b)(1)(iii) that reads, ''If it is not feasible to obtain a criminal record check prior to hiring, an employee must not be considered permanent until such a check has been completed.''

Other commenters suggested wording that would help clarify the intent of this section. For example, one commenter suggested that, in order to make this section consistent with Appendix A of 45 CFR 1304.50, we should specifically state that Policy Committees or Policy Councils must approve the personnel policies of delegate agencies in 45 CFR 1301.31(a). Others suggested that we use the term ''salary range'' within job descriptions in 45 CFR 1301.31(a)(1) instead of ''salary.'' We agree with these comments, and have made these changes.

PART 1303—APPEAL PROCEDURES FOR HEAD START GRANTEES AND CURRENT OR PROSPECTIVE DELEGATE AGENCIES

Several comments were received on part 1303 which expressed concern about the requirement that financial assistance be terminated or refunding be denied due to one or more deficiences. The termination of financial assistance or the denial of refunding due to one or more deficiencies is required by section 641 of the Head Start Act, as amended.

For clarification purposes, we made a technical change to the NPRM text for § 1303.14(b)(4) to provide that one of the reasons for termination of financial assistance to a grantee is the failure to timely correct one or more deficiencies as defined in 45 CFR part 1304. We deleted the proposed revision to § 1303.15(c) because the clarification to § 1303.14(b)(4) negates the need to revise the current § 1303.15(c).

PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT, AND ATTENDANCE IN HEAD START

Commenters pointed out that the term ''Community Needs Assessment'' focuses too heavily on the deficits in a community, rather than on its strengths. We agree, and have changed the title of this process to ''Community Assessment'' wherever the term ''Community Need Assessment'' appears in part 1305. No other changes were made to the NPRM language for part 1305.

PART 1306—HEAD START STAFFING REQUIREMENTS AND PROGRAM OPTIONS

The comments received on the sections in this part as set forth in the NPRM raised concerns that have been addressed earlier in this Preamble such as the requirement for CDA training, the need to integrate 45 CFR parts 1305, 1306, and 1308 into 45 CFR Part 1304, and the need for guidance on class size and home visitor caseloads. Subsequently, no changes were needed to this part.

PART 1308—HEAD START PROGRAM PERFORMANCE STANDARDS ON SERVICES FOR CHILDREN WITH DISABILITIES

The comments received on part 1308 basically requested the integration of part 1308 into the Program Performance Standards. The reasons for not integating part 1308 have been discussed earlier in this Preamble.

We have reworded the amendment to 45 CFR 1308.6(b)(1) to reflect the wording in 45 CFR 1304.20.

VII. Impact Analysis

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that there is consistency with the priorities and principles set forth in this Executive Order. The Department has determined that this significant rule, which was reviewed by OMB, is consistent with these priorities and principles. This final rule implements the statutory authority to promulgate regulations for Head Start Program Performance Standards. The Head Start Act, as amended, requires the addition of new performance standards in the following areas: administrative and financial management, transition activities, family literacy, a family needs assessment and consultation process, and standards for programs serving low-income pregnant women and families with infants and toddlers. Many of the new standards in this final rule are directly related to these specific legislative mandates. Congress made no additional appropriation to fund these new requirements, however, and so any funds spent toward the improvement of services, facilities, infrastructures, or other purposes related to this regulation are funds that would have been otherwise spent by the program or other programs from the same appropriation amount. In addition, new standards have been added in the areas of child health and developmental services, education and early childhood development in home-based settings, health emergency and safety procedures, and family and community partnerships which are responsive to the legislative mandate and to Advisory Committee recommendations to improve the quality of the Head Start program and to establish the Early Head Start program. We believe that this final rule is focused in ways that encourage maximum cost-effectiveness in agency spending decisions.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses.

For each rule with a ''significant economic impact on a substantial number of small entities,'' an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations and small governmental entities. While these regulations would affect small entities, the Secretary certifies that this rule will not have a significant impact on substantial numbers of small entities for the reasons noted below.

All grantee and delegate agencies are currently required to meet a large group of Head Start Program Performance Standards. In keeping with the Head Start Act, as amended, the new standards have been developed in consultation with individuals who have experience operating Head Start programs. Further, the requirements that are more stringent with regard to paperwork burden than the current requirements are based on the new legislative mandates contained in the 1994 Head Start reauthorization, such as the requirement for new infant and toddler standards, the need to respond to changes over time in the kinds of services that the Head Start population requires, the need to reflect best practices in the field of early childhood development, and the need to promote Head Start program quality and to facilitate Head Start expansion. Finally, we believe that meeting these requirements will not be burdensome to grantee and delegate agencies because we are not requiring compliance until January 1, 1998. We also believe that, as grantee and delegate agencies implement these requirements, there will be no ongoing burden.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. No OMB control numbers have yet been assigned to the information collection requirements in this final rule. We have submitted the information collection package to OMB for review. When OMB approves the information collection package, we will publish the OMB control numbers in the Federal Register.

The sections that contain information collection are: Child health and developmental services (45 CFR 1304.20(a)(1), (c)(5), and (d)); child health and safety (45 CFR 1304.22(c); child nutrition (45 CFR 1304.23(a)(1)); family partnerships (45 CFR 1304.40(a)(2)); community partnerships (45 CFR 1304.41(a)(1)); program governance (45 CFR 1304.50(f), (g) and (h)); management systems and procedures (45 CFR 1304.51(a)(1) (i)–(iii), (2), and (i)(1)); human resources management (45 CFR 1304.52(j)(2)); deficiencies and quality improvement plans (45 CFR 1304.60 (b) and (c)); criminal record checks and declarations (45 CFR 1301.31(b)(1)(iii) and (b)(2)); and community assessment (45 CFR 1305.3 (b) and (d)).

Relatively few of the nearly 15,000 comments received on the NPRM addressed the collection of information requirements proposed in the NPRM. However, some comments were received concerning information collection requirements contained in specific sections of the NPRM.

We received a few comments on the information collection requirements concerning child health and developmental assessments, which are required in 45 CFR 1304.20(a). These comments concerned the gathering of health and developmental assessments information for each child. Changes have been made in the standards to emphasize that Early Head Start and Head Start grantee and delegate agencies should assist parents in connecting to a ''medical home'' (45 CFR 1304.20(a)(1)(i)) and that they should obtain information as to whether a child is up-to-date on a schedule of age-appropriate preventive and primary health care from a health care professional rather than gathering the information themselves (45 CFR 1304.20(a)(1)(ii)).

Comments also were received on the information collection requirement that grantee and delegate agencies have ''written documentation of their efforts to access other available funds for medical and dental services'' (45 CFR 1304.22(a)(5) in the NPRM; 45 CFR 1304.20(c)(5) in the final rule). Commenters stated that it is sometimes difficult to obtain written documentation on why agencies refuse to pay for or will not provide services. It was not the intent of the standard to have other agencies provide this information, but, rather, to have Early Head Start and Head Start agencies create a record of their efforts to access other sources of funding. Thus, we have reworded the standard to require agencies to provide ''written documentation of their efforts to access other available sources of funding'' (45 CFR 1304.20(c)(5)).

We received several comments on the information collection requirements to complete nutritional assessments and to record information on family eating patterns and community nutritional issues which are required in 45 CFR 1304.23(a). Some concern was expressed about the level of paperwork that would be required to document the conduct of nutritional assessments with families. In response, we have clarified 45 CFR 1304.23(a)(1) so that, in identifying a child's nutritional needs, staff must take into account ''any relevant nutrition-related assessment data.'' This will increase the flexibility in using pre-existing records, rather

than conducting special nutritional assessments.

Some commenters stated that developing the Family Partnership Agreements required in 45 CFR 1304.40(a)(2) might increase the amount of time necessary for working with families. This agreement process is expected to result in better outcomes than the process required in the current standards. Therefore, we have retained the standard.

We received a few comments about the information collection requirements regarding the building of partnerships in the community in 45 CFR 1304.41. Commenters supported the partnership building process, but were unsure about how to document it. In response, language was added to 45 CFR 1304.41(a)(1) to state that agencies should document ''the level of effort undertaken to establish community partnerships.'' This requirement addresses concerns raised by commenters about situations where community planning efforts are not supported by other community groups, and is designed to give agencies a chance to document their ongoing efforts, which may not always be successful.

We received only one comment on the information collection requirements in Program Governance (45 CFR 1304.50). This comment expressed concern about the paperwork associated with reimbursing parents serving on policy making bodies (45 CFR 1304.50(f)). No change was made in the standard, since records are required to support such reimbursements.

We received only a few comments on the information collection requirements placed on grantee and delegate agencies regarding Management Systems and Procedures. These commenters stated that the documentation related to program planning might be burdensome (45 CFR 1304.51(a)(2)). Although we recognize that there may be some burden involved, we made no changes to the standard because we feel that the documentation required is important to program quality.

We received several comments on the information collection requirements in 45 CFR 1304.52, Human Resources Management. Commenters stated that we significantly increased the number of individuals who would need a tuberculosis screening, and that it is often difficult to obtain the screening or to document that it is unnecessary (45 CFR 1304.52(j)(2)). In response, we have clarified that only regular volunteers must be screened in accordance with State, Tribal or local laws or when recommended by the local Health Services Advisory Committee.

We received a few comments about the information collection requirements related to deficiencies and quality improvement plans (45 CFR 1304.60 and 45 CFR 1304.61 in the NPRM). A few commenters stated that specifics should be provided regarding the documentation that can be requested by officials of the U.S. Department of Health and Human Services (45 CFR 1304.60(b)). This level of specificity cannot be included in the standard, because the documentation that will be required will relate to the specific deficiency that is identified.

We received no information collection comments on several sections: 45 CFR 1304.21, Education and Early Childhood Development; 45 CFR 1304.22, Child Health Safety; 45 CFR 1304.24, Child Mental Health; 45 CFR 1304.53, Facilities, Materials, and Equipment; and 45 CFR 1301.31, Personnel Policies.

In this final rule, we are including the OMB approval number for 45 CFR 1305.3(b) and (d) on community assessments at the end of the section which has an expiration date of September 30, 1998.

We are soliciting comments on 45 CFR 1301.31 (b)(1)(iii) and (b)(2) on criminal record checks and declarations, for a 60 day period. We inadvertently did not solicit comment on this section in the NPRM. However, this requirement is not new as it is now in current Head Start regulations. Written comments to OMB on this section should be sent to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, Attn: Ms Wendy Taylor.

List of Subjects

45 CFR Part 1301

Administrative practice and procedure, Education of the disadvantaged, Grant programs/social programs, Selection of grantees.

45 CFR Part 1303

Administrative practice and procedure, Education of the disadvantaged, Grant programs/social programs, Reporting and recordkeeping requirements.

45 CFR Part 1304

Dental health, Education of the disadvantaged, Grant programs/social programs, Health care, Mental health programs, Nutrition, Reporting and recordkeeping requirements.

45 CFR Part 1305

Education of the disadvantaged, Grant programs/social programs, Individuals with disabilities.

45 CFR Part 1306

Education of the disadvantaged, Grant programs/social programs.

45 CFR Part 1308

Education of the disadvantaged, Grant programs/social programs, Health care, Individuals with disabilities, Nutrition, Reporting and recordkeeping.

(Catalog of Federal Domestic Assistance Program Number 93.600, Project Head Start)

Dated: September 17, 1996.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Approved: September 19, 1996.

Donna E. Shalala,

Secretary.

For the reasons set forth in the preamble, 45 CFR chapter XIII, subchapter B is amended to read as follows:

1. Part 1304—is revised to read as follows:

PART 1304—PROGRAM PERFORMANCE STANDARDS FOR THE OPERATION OF HEAD START PROGRAMS BY GRANTEE AND DELEGATE AGENCIES

Subpart A–General

Subpart B–Early Childhood Development and Health Services

Subpart C–Family and Community Partnerships

Subpart D—Program Design and Management

Subpart E—Implementation and Enforcement

Authority: 42 U.S.C. 9801 *et seq.*

Subpart A—General

§ 1304.1 Purpose and scope.

This part describes regulations implementing sections 641A, 644(a) and (c), and 645A(h) of the Head Start Act, as amended (42 U.S.C. 9801 *et seq.*). Section 641A, paragraph (a)(3)(C) directs the Secretary of Health and Human Services to review and revise, as necessary, the Head Start Program Performance Standards in effect under prior law. This paragraph further provides that any revisions should not result in an elimination or reduction of requirements regarding the scope or types of Head Start services to a level below that of the requirements in effect on November 2, 1978. Section 641A(a) directs the Secretary to issue regulations establishing performance standards and minimum requirements with respect to health, education, parent involvement, nutrition, social, transition, and other Head Start services as well as administrative and financial management, facilities, and other appropriate program areas. Sections 644(a) and (c) require the issuance of regulations setting standards for the organization, management, and administration of Head Start programs. Section 645A(h) requires that the Secretary develop and publish performance standards for the newly authorized program for low-income pregnant women and families with infants and toddlers, entitled ''Early Head Start.'' The following regulations respond to these provisions in the Head Start Act, as amended, for new or revised Head Start Program Performance Standards. These new regulations define standards and minimum requirements for the entire range of Early Head Start and Head Start services, including those specified in the authorizing legislation. They are applicable to both Head Start and Early Head Start programs, with the exceptions noted, and are to be used in conjunction with the regulations at 45 CFR parts 1301, 1302, 1303, 1305, 1306, and 1308.

§ 1304.2 Effective date.

Early Head Start and Head Start grantee and delegate agencies must comply with these requirements on January 1, 1998. Nothing in this part prohibits grantee or delegate agencies from voluntarily complying with these regulations prior to the effective date.

§ 1304.3 Definitions.

(a) As used in this part:

(1) *Assessment* means the ongoing procedures used by appropriate qualified personnel throughout the period of a child's eligibility to identify:

(i) The child's unique strengths and needs and the services appropriate to meet those needs; and

(ii) The resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their child.

(2) *Children with disabilities* means, for children ages 3 to 5, those with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deaf-blindness, or multiple disabilities, and who, by reason thereof, need special education and related services. The term ''children with disabilities'' for children aged 3 to 5, inclusive, may, at a State's discretion, include children experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and who, by reason thereof, need special education and related services. Infants and toddlers with disabilities are those from birth to three years, as identified under the Part H Program (Individuals with Disabilities Education Act) in their State.

(3) *Collaboration and collaborative relationships:*

(i) With other agencies, means planning and working with them in order to improve, share and augment services, staff, information and funds; and

(ii) With parents, means working in partnership with them.

(4) *Contagious* means capable of being transmitted from one person to another.

(5) *Curriculum* means a written plan that includes:

(i) The goals for children's development and learning;

(ii) The experiences through which they will achieve these goals;

(iii) What staff and parents do to help children achieve these goals; and

(iv) The materials needed to support the implementation of the curriculum. The curriculum is consistent with the Head Start Program Performance Standards and is based on sound child development principles about how children grow and learn.

(6) *Deficiency* means:

(i) An area or areas of performance in which an Early Head Start or Head Start grantee agency is not in compliance with State or Federal requirements, including but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title and which involves:

(A) A threat to the health, safety, or civil rights of children or staff;

(B) A denial to parents of the exercise of their full roles and responsibilities related to program governance;

(C) A failure to perform substantially the requirements related to Early Childhood Development and Health Services, Family and Community Partnerships, or Program Design and Management; or

(D) The misuse of Head Start grant funds.

(ii) The loss of legal status or financial viability, as defined in part 1302 of this title, loss of permits, debarment from receiving Federal grants or contracts or the improper use of Federal funds; or

(iii) Any other violation of Federal or State requirements including, but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title, and which the grantee has shown an unwillingness or inability to correct within the period specified by the responsible HHS official, of which the responsible HHS official has given the grantee written notice of pursuant to section 1304.61.

(7) *Developmentally appropriate* means any behavior or experience that is appropriate for the age span of the children and is implemented with attention to the different needs, interests, and developmental levels and cultural backgrounds of individual children.

(8) *Early Head Start* program means a program that provides low-income pregnant women and families with children from birth to age 3 with family-centered services that facilitate child development, support parental roles, and promote self-sufficiency.

(9) *Family* means for the purposes of the regulations in this part all persons:

(i) Living in the same household who are:

(A) Supported by the income of the parent(s) or guardian(s) of the child enrolling or participating in the program; or

(B) Related to the child by blood, marriage, or adoption; or

(ii) Related to the child enrolling or participating in the program as parents or siblings, by blood, marriage, or adoption.

(10) *Guardian* means a person legally responsible for a child.

(11) *Health* means medical, dental, and mental well-being.

(12) *Home visitor* means the staff member in the home-based program option assigned to work with parents to provide comprehensive services to children and their families through home visits and group socialization activities.

(13) *Individualized Family Service Plan (IFSP)* means a written plan for providing early intervention services to a child eligible under Part H of the Individuals with Disabilities Education Act (IDEA). (See 34 CFR 303.340–303.346 for regulations concerning IFSPs.)

(14) *Minimum requirements* means that each Early Head Start and Head Start grantee must demonstrate a level of compliance with Federal and State requirements such that no deficiency, as defined in this part, exists in its program.

(15) *Policy group* means the formal group of parents and community representatives required to be established by the agency to assist in decisions about the planning and operation of the program.

(16) *Program attendance* means the actual presence and participation in the program of a child enrolled in an Early Head Start or Head Start program.

(17) *Referral* means directing an Early Head Start or Head Start child or family member(s) to an appropriate source or resource for help, treatment or information.

(18) *Staff* means paid adults who have responsibilities related to children and their families who are enrolled in Early Head Start or Head Start programs.

(19) *Teacher* means an adult who has direct responsibility for the care and development of children from birth to 5 years of age in a center-based setting.

(20) *Volunteer* means an unpaid person who is trained to assist in implementing ongoing program activities on a regular basis under the supervision of a staff person in areas such as health, education, transportation, nutrition, and management.

(b) In addition to the definitions in this section, the definitions as set forth in 45 CFR 1301.2, 1302.2, 1303.2, 1305.2, 1306.3, and 1308.3 also apply, as used in this part.

Subpart B—Early Childhood Development and Health Services

§ 1304.20 Child health and developmental services.

(a) *Determining child health status.* (1) In collaboration with the parents and as quickly as possible, but no later than 90 calendar days (with the exception noted in paragraph (a)(2) of this section) from the child's entry into the program (for the purposes of 45 CFR 1304.20(a)(1), 45 CFR 1304.20(a)(2), and 45 CFR 1304.20(b)(1), ''entry'' means the first day that Early Head Start or Head Start services are provided to the child), grantee and delegate agencies must:

(i) Make a determination as to whether or not each child has an ongoing source of continuous, accessible health care. If a child does not have a source of ongoing health care, grantee and delegate agencies must assist the parents in accessing a source of care;

(ii) Obtain from a health care professional a determination as to whether the child is up-to-date on a schedule of age appropriate preventive and primary health care which includes medical, dental and mental health. Such a schedule must incorporate the requirements for a schedule of well child care utilized by the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program of the Medicaid agency of the State in which they operate, and the latest immunization recommendations issued by the Centers for Disease Control and Prevention, as well as any additional recommendations from the local Health Services Advisory Committee that are based on prevalent community health problems:

(A) For children who are not up-to-date on an age-appropriate schedule of well child care, grantee and delegate agencies must assist parents in making the necessary arrangements to bring the child up-to-date;

(B) For children who are up-to-date on an age-appropriate schedule of well child care, grantee and delegate agencies must ensure that they continue to follow the recommended schedule of well child care; and

(C) Grantee and delegate agencies must establish procedures to track the provision of health care services.

(iii) Obtain or arrange further diagnostic testing, examination, and treatment by an appropriate licensed or certified professional for each child with an observable, known or suspected health or developmental problem; and

(iv) Develop and implement a follow-up plan for any condition identified in 45 CFR 1304.20(a)(1)(ii) and (iii) so that any needed treatment has begun.

(2) Grantee and delegate agencies operating programs of shorter durations (90 days or less) must complete the above processes and those in 45 CFR 1304.20(b)(1) within 30 calendar days from the child's entry into the program.

(b) *Developmental, sensory, and behavioral screening.* (1) In collaboration with each child's parent, and within 45 calendar days of the child's entry into the program, grantee and delegate agencies must perform or obtain linguistically and age appropriate developmental, sensory and behavioral screenings of motor, language, social, cognitive, perceptual, and emotional skills (see 45 CFR 1308.6(b)(3) for additional information). To the greatest extent possible, these screenings must be sensitive to the child's cultural background.

(2) Grantee and delegate agencies must obtain direct guidance from a mental health or child development professional on how to use the findings to address identified needs.

(3) Grantee and delegate agencies must utilize multiple sources of information on all aspects of each child's development and behavior, including input from family members, teachers, and other relevant staff who are familiar with the child's typical behavior.

(c) *Extended follow-up and treatment.* (1) Grantee and delegate agencies must establish a system of ongoing communication with the parents of children with identified health needs to facilitate the implementation of the follow-up plan.

(2) Grantee and delegate agencies must provide assistance to the parents, as needed, to enable them to learn how to obtain any prescribed medications, aids or equipment for medical and dental conditions.

(3) Dental follow-up and treatment must include:

(i) Fluoride supplements and topical fluoride treatments as recommended by dental professionals in communities where a lack of adequate fluoride levels has been determined or for every child with moderate to severe tooth decay; and

(ii) Other necessary preventive measures and further dental treatment as recommended by the dental professional.

(4) Grantee and delegate agencies must assist with the provision of related services addressing health concerns in accordance with the Individualized Education Program and the Individualized Family Service Plan (IFSP).

(5) Early Head Start and Head Start funds may be used for professional medical and dental services when no other source of funding is available. When Early Head Start or Head Start funds are used for such services, grantee and delegate agencies must have written documentation of their efforts to access other available sources of funding.

(d) *Ongoing care.* In addition to assuring children's participation in a schedule of well child care, as described in § 1304.20(a) of this part, grantee and delegate agencies must implement ongoing procedures by which Early Head Start and Head Start staff can identify any new or recurring medical, dental, or developmental concerns so that they may quickly make appropriate referrals. These procedures must include: periodic observations and recordings, as appropriate, of individual children's developmental progress, changes in physical appearance (e.g., signs of injury or illness) and emotional and behavioral patterns. In addition, these procedures must include observations from parents and staff.

(e) *Involving parents.* In conducting the process, as described in §§ 1304.20 (a), (b), and (c), and in making all possible efforts to ensure that each child is enrolled in and receiving appropriate health care services, grantee and delegate agencies must:

(1) Consult with parents immediately when child health or developmental problems are suspected or identified;

(2) Familiarize parents with the use of and rationale for all health and developmental procedures administered through the program or by contract or agreement, and obtain advance parent or guardian authorization for such procedures. Grantee and delegate agencies also must ensure that the results of diagnostic and treatment procedures and ongoing care are shared with and understood by the parents;

(3) Talk with parents about how to familiarize their children in a developmentally appropriate way and in advance about all of the procedures they will receive while enrolled in the program;

(4) Assist parents in accordance with 45 CFR 1304.40(f)(2) (i) and (ii) to enroll and participate in a system of ongoing family health care and encourage parents to be active partners in their children's health care process; and

(5) If a parent or other legally responsible adult refuses to give authorization for health services, grantee and delegate agencies must maintain written documentation of the refusal.

(f) *Individualization of the program.* (1) Grantee and delegate agencies must use the information from the developmental, sensory, and behavioral screenings, the ongoing observations, medical and dental evaluations and treatments, and insights from the child's parents to help staff and parents determine how the program can best respond to each child's individual characteristics, strengths and needs.

(2) To support individualization for children with disabilities in their programs, grantee and delegate agencies must assure that:

(i) Services for infants and toddlers with disabilities and their families support the attainment of the expected outcomes contained in the Individualized Family Service Plan (IFSP) for children identified under the infants and toddlers with disabilities program (Part H) of the Individuals with Disabilities Education Act, as implemented by their State or Tribal government;

(ii) Enrolled families with infants and toddlers suspected of having a disability are promptly referred to the local early intervention agency designated by the State Part H plan to coordinate any needed evaluations, determine eligibility for Part H services, and coordinate the development of an IFSP for children determined to be eligible under the guidelines of that State's program. Grantee and delegate agencies must support parent participation in the evaluation and IFSP development process for infants and toddlers enrolled in their program;

(iii) They participate in and support efforts for a smooth and effective transition for children who, at age three, will need to be considered for services for preschool age children with disabilities; and

(iv) They participate in the development and implementation of the Individualized Education Program (IEP) for preschool age children with disabilities, consistent with the requirements of 45 CFR 1308.19.

§ 1304.21 Education and early childhood development.

(a) *Child development and education approach for all children.* (1) In order to help children gain the skills and confidence necessary to be prepared to succeed in their present environment and with later responsibilities in school and life, grantee and delegate agencies' approach to child development and education must:

(i) Be developmentally and linguistically appropriate, recognizing that children have individual rates of development as well as individual interests, temperaments, languages, cultural backgrounds, and learning styles;

(ii) Be inclusive of children with disabilities, consistent with their Individualized Family Service Plan (IFSP) or Individualized Education Program (IEP) (see 45 CFR 1308.19);

(iii) Provide an environment of acceptance that supports and respects gender, culture, language, ethnicity and family composition;

(iv) Provide a balanced daily program of child-initiated and adult-directed activities, including individual and small group activities; and

(v) Allow and enable children to independently use toilet facilities when it is developmentally appropriate and when efforts to encourage toilet training are supported by the parents.

(2) Parents must be:

(i) Invited to become integrally involved in the development of the program's curriculum and approach to child development and education;

(ii) Provided opportunities to increase their child observation skills and to share assessments with staff that will help plan the learning experiences; and

(iii) Encouraged to participate in staff-parent conferences and home visits to discuss their child's development and education (see 45 CFR 1304.40(e)(4) and 45 CFR 1304.40(i)(2)).

(3) Grantee and delegate agencies must support social and emotional development by:

(i) Encouraging development which enhances each child's strengths by:

(A) Building trust;

(B) Fostering independence;

(C) Encouraging self-control by setting clear, consistent limits, and having realistic expectations;

(D) Encouraging respect for the feelings and rights of others; and

(E) Supporting and respecting the home language, culture, and family composition of each child in ways that support the child's health and well-being; and

(ii) Planning for routines and transitions so that they occur in a timely, predictable and unrushed manner according to each child's needs.

(4) Grantee and delegate agencies must provide for the development of each child's cognitive and language skills by:

(i) Supporting each child's learning, using various strategies including experimentation, inquiry, observation, play and exploration;

(ii) Ensuring opportunities for creative self-expression through activities such as art, music, movement, and dialogue;

(iii) Promoting interaction and language use among children and between children and adults; and

(iv) Supporting emerging literacy and numeracy development through materials and activities according to the developmental level of each child.

(5) In center-based settings, grantee and delegate agencies must promote each child's physical development by:

(i) Providing sufficient time, indoor and outdoor space, equipment, materials and adult guidance for active play and movement that support the development of gross motor skills;

(ii) Providing appropriate time, space, equipment, materials and adult guidance for the development of fine motor skills according to each child's developmental level; and

(iii) Providing an appropriate environment and adult guidance for the participation of children with special needs.

(6) In home-based settings, grantee and delegate agencies must encourage parents to appreciate the importance of physical development, provide opportunities for children's outdoor and indoor active play, and guide children in the safe use of equipment and materials.

(b) *Child development and education approach for infants and toddlers.* (1) Grantee and delegate agencies' program of services for infants and toddlers must encourage (see 45 CFR 1304.3(a)(5)):

(i) The development of secure relationships in out-of-home care settings for infants and toddlers by having a limited number of consistent teachers over an extended period of time. Teachers must demonstrate an understanding of the child's family culture and, whenever possible, speak the child's language (see 45 CFR 1304.52(g)(4));

(ii) Trust and emotional security so that each child can explore the environment according to his or her developmental level; and

(iii) Opportunities for each child to explore a variety of sensory and motor experiences with support and stimulation from teachers and family members.

(2) Grantee and delegate agencies must support the social and emotional development of infants and toddlers by promoting an environment that:

(i) Encourages the development of self-awareness, autonomy, and self-expression; and

(ii) Supports the emerging communication skills of infants and toddlers by providing daily opportunities for each child to interact with others and to express himself or herself freely.

(3) Grantee and delegate agencies must promote the physical development of infants and toddlers by:

(i) Supporting the development of the physical skills of infants and toddlers including gross motor skills, such as grasping, pulling, pushing, crawling, walking, and climbing; and

(ii) Creating opportunities for fine motor development that encourage the control and coordination of small, specialized motions, using the eyes, mouth, hands, and feet.

(c) *Child development and education approach for preschoolers.* (1) Grantee and delegate agencies, in collaboration with the parents, must implement a curriculum (see 45 CFR 1304.3(a)(5)) that:

(i) Supports each child's individual pattern of development and learning;

(ii) Provides for the development of cognitive skills by encouraging each child to organize his or her experiences, to understand concepts, and to develop age appropriate literacy, numeracy, reasoning, problem solving and decision-making skills which form a foundation for school readiness and later school success;

(iii) Integrates all educational aspects of the health, nutrition, and mental health services into program activities;

(iv) Ensures that the program environment helps children develop emotional security and facility in social relationships;

(v) Enhances each child's understanding of self as an individual and as a member of a group;

(vi) Provides each child with opportunities for success to help develop feelings of competence, self-esteem, and positive attitudes toward learning; and

(vii) Provides individual and small group experiences both indoors and outdoors.

(2) Staff must use a variety of strategies to promote and support children's learning and developmental progress based on the observations and ongoing assessment of each child (see 45 CFR 1304.20(b), 1304.20(d), and 1304.20(e)).

§ 1304.22 Child health and safety.

(a) *Health emergency procedures.* Grantee and delegate agencies operating center-based programs must establish and implement policies and procedures to respond to medical and dental health emergencies with which all staff are familiar and trained. At a minimum, these policies and procedures must include:

(1) Posted policies and plans of action for emergencies that require rapid response on the part of staff (e.g., a child choking) or immediate medical or dental attention;

(2) Posted locations and telephone numbers of emergency response systems. Up-to-date family contact information and authorization for emergency care for each child must be readily available;

(3) Posted emergency evacuation routes and other safety procedures for emergencies (e.g., fire or weather-related) which are practiced regularly (see 45 CFR 1304.53 for additional information);

(4) Methods of notifying parents in the event of an emergency involving their child; and

(5) Established methods for handling cases of suspected or known child abuse and neglect that are in compliance with applicable Federal, State, or Tribal laws.

(b) *Conditions of short-term exclusion and admittance.* (1) Grantee and delegate agencies must temporarily exclude a child with a short-term injury or an acute or short-term contagious illness, that cannot be readily accommodated, from program participation in center-based activities or group experiences, but only for that generally short-term period when keeping the child in care poses a significant risk to the health or safety of the child or anyone in contact with the child.

(2) Grantee and delegate agencies must not deny program admission to any child, nor exclude any enrolled child from program participation for a long-term period, solely on the basis of his or her health care needs or medication requirements unless keeping the child in care poses a significant risk to the health or safety of the child or anyone in contact with the child and the risk cannot be eliminated or reduced to an acceptable level through reasonable modifications in the grantee or delegate agency's policies, practices or procedures or by providing appropriate auxiliary aids which would enable the child to participate without fundamentally altering the nature of the program.

(3) Grantee and delegate agencies must request that parents inform them of any health or safety needs of the child that the program may be required to address. Programs must share information, as necessary, with appropriate staff regarding accommodations needed in accordance with the program's confidentiality policy.

(c) *Medication administration.* Grantee and delegate agencies must establish and maintain written procedures regarding the administration, handling, and storage of medication for every child. Grantee and delegate agencies may modify these procedures as necessary to satisfy State or Tribal laws, but only where such

laws are consistent with Federal laws. The procedures must include:

(1) Labeling and storing, under lock and key, and refrigerating, if necessary, all medications, including those required for staff and volunteers;

(2) Designating a trained staff member(s) or school nurse to administer, handle and store child medications;

(3) Obtaining physicians' instructions and written parent or guardian authorizations for all medications administered by staff;

(4) Maintaining an individual record of all medications dispensed, and reviewing the record regularly with the child's parents;

(5) Recording changes in a child's behavior that have implications for drug dosage or type, and assisting parents in communicating with their physician regarding the effect of the medication on the child; and

(6) Ensuring that appropriate staff members can demonstrate proper techniques for administering, handling, and storing medication, including the use of any necessary equipment to administer medication.

(d) *Injury prevention.* Grantee and delegate agencies must:

(1) Ensure that staff and volunteers can demonstrate safety practices; and

(2) Foster safety awareness among children and parents by incorporating it into child and parent activities.

(e) *Hygiene.* (1) Staff, volunteers, and children must wash their hands with soap and running water at least at the following times:

(i) After diapering or toilet use;

(ii) Before food preparation, handling, consumption, or any other food-related activity (e.g., setting the table);

(iii) Whenever hands are contaminated with blood or other bodily fluids; and

(iv) After handling pets or other animals.

(2) Staff and volunteers must also wash their hands with soap and running water:

(i) Before and after giving medications;

(ii) Before and after treating or bandaging a wound (nonporous gloves should be worn if there is contact with blood or blood-containing body fluids); and

(iii) After assisting a child with toilet use.

(3) Nonporous (e.g., latex) gloves must be worn by staff when they are in contact with spills of blood or other visibly bloody bodily fluids.

(4) Spills of bodily fluids (e.g., urine, feces, blood, saliva, nasal discharge, eye discharge or any fluid discharge) must be cleaned and disinfected immediately in keeping with professionally established guidelines (e.g., standards of the Occupational Safety Health Administration, U.S. Department of Labor). Any tools and equipment used to clean spills of bodily fluids must be cleaned and disinfected immediately. Other blood-contaminated materials must be disposed of in a plastic bag with a secure tie.

(5) Grantee and delegate agencies must adopt sanitation and hygiene procedures for diapering that adequately protect the health and safety of children served by the program and staff. Grantee and delegate agencies must ensure that staff properly conduct these procedures.

(6) Potties that are utilized in a center-based program must be emptied into the toilet and cleaned and disinfected after each use in a utility sink used for this purpose.

(7) Grantee and delegate agencies operating programs for infants and toddlers must space cribs and cots at least three feet apart to avoid spreading contagious illness and to allow for easy access to each child.

(f) *First aid kits.* (1) Readily available, well-supplied first aid kits appropriate for the ages served and the program size must be maintained at each facility and available on outings away from the site. Each kit must be accessible to staff members at all times, but must be kept out of the reach of children.

(2) First aid kits must be restocked after use, and an inventory must be conducted at regular intervals.

§ 1304.23 Child nutrition.

(a) *Identification of nutritional needs.* Staff and families must work together to identify each child's nutritional needs, taking into account staff and family discussions concerning:

(1) Any relevant nutrition-related assessment data (height, weight, hemoglobin/hematocrit) obtained under 45 CFR 1304.20(a);

(2) Information about family eating patterns, including cultural preferences, special dietary requirements for each child with nutrition-related health problems, and the feeding requirements of infants and toddlers and each child with disabilities (see 45 CFR 1308.20);

(3) For infants and toddlers, current feeding schedules and amounts and types of food provided, including whether breast milk or formula and baby food is used; meal patterns; new foods introduced; food intolerances and preferences; voiding patterns; and observations related to developmental changes in feeding and nutrition. This information must be shared with parents and updated regularly; and

(4) Information about major community nutritional issues, as identified through the Community Assessment or by the Health Services Advisory Committee or the local health department.

(b) *Nutritional services.* (1) Grantee and delegate agencies must design and implement a nutrition program that meets the nutritional needs and feeding requirements of each child, including those with special dietary needs and children with disabilities. Also, the nutrition program must serve a variety of foods which consider cultural and ethnic preferences and which broaden the child's food experience.

(i) All Early Head Start and Head Start grantee and delegate agencies must use funds from USDA Food and Consumer Services Child Nutrition Programs as the primary source of payment for meal services. Early Head Start and Head Start funds may be used to cover those allowable costs not covered by the USDA.

(ii) Each child in a part-day center-based setting must receive meals and snacks that provide at least ⅓ of the child's daily nutritional needs. Each child in a center-based full-day program must receive meals and snacks that provide ½ to ⅔ of the child's daily nutritional needs, depending upon the length of the program day.

(iii) All children in morning center-based settings who have not received breakfast at the time they arrive at the Early Head Start or Head Start program must be served a nourishing breakfast.

(iv) Each infant and toddler in center-based settings must receive food appropriate to his or her nutritional needs, developmental readiness, and feeding skills, as recommended in the USDA meal pattern or nutrient standard menu planning requirements outlined in 7 CFR parts 210, 220, and 226.

(v) For 3- to 5-year-olds in center-based settings, the quantities and kinds of food served must conform to recommended serving sizes and minimum standards for meal patterns recommended in the USDA meal pattern or nutrient standard menu planning requirements outlined in 7 CFR parts 210, 220, and 226.

(vi) For 3- to 5-year-olds in center-based settings or other Head Start group experiences, foods served must be high in nutrients and low in fat, sugar, and salt.

(vii) Meal and snack periods in center-based settings must be appropriately scheduled and adjusted, where necessary, to ensure that individual needs are met. Infants and young toddlers who need it must be fed

''on demand'' to the extent possible or at appropriate intervals.

(2) Grantee and delegate agencies operating home-based program options must provide appropriate snacks and meals to each child during group socialization activities (see 45 CFR 1306.33 for information regarding home-based group socialization).

(3) Staff must promote effective dental hygiene among children in conjunction with meals.

(4) Parents and appropriate community agencies must be involved in planning, implementing, and evaluating the agencies' nutritional services.

(c) *Meal service.* Grantee and delegate agencies must ensure that nutritional services in center-based settings contribute to the development and socialization of enrolled children by providing that:

(1) A variety of food is served which broadens each child's food experiences;

(2) Food is not used as punishment or reward, and that each child is encouraged, but not forced, to eat or taste his or her food;

(3) Sufficient time is allowed for each child to eat;

(4) All toddlers and preschool children and assigned classroom staff, including volunteers, eat together family style and share the same menu to the extent possible;

(5) Infants are held while being fed and are not laid down to sleep with a bottle;

(6) Medically-based diets or other dietary requirements are accommodated; and

(7) As developmentally appropriate, opportunity is provided for the involvement of children in food-related activities.

(d) *Family assistance with nutrition.* Parent education activities must include opportunities to assist individual families with food preparation and nutritional skills.

(e) *Food safety and sanitation.* (1) Grantee and delegate agencies must post evidence of compliance with all applicable Federal, State, Tribal, and local food safety and sanitation laws, including those related to the storage, preparation and service of food and the health of food handlers. In addition, agencies must contract only with food service vendors that are licensed in accordance with State, Tribal or local laws.

(2) For programs serving infants and toddlers, facilities must be available for the proper storage and handling of breast milk and formula.

§ 1304.24 Child mental health.

(a) *Mental health services.* (1) Grantee and delegate agencies must work collaboratively with parents (see 45 CFR 1304.40(f) for issues related to parent education) by:

(i) Soliciting parental information, observations, and concerns about their child's mental health;

(ii) Sharing staff observations of their child and discussing and anticipating with parents their child's behavior and development, including separation and attachment issues;

(iii) Discussing and identifying with parents appropriate responses to their child's behaviors;

(iv) Discussing how to strengthen nurturing, supportive environments and relationships in the home and at the program;

(v) Helping parents to better understand mental health issues; and

(vi) Supporting parents' participation in any needed mental health interventions.

(2) Grantee and delegate agencies must secure the services of mental health professionals on a schedule of sufficient frequency to enable the timely and effective identification of and intervention in family and staff concerns about a child's mental health; and

(3) Mental health program services must include a regular schedule of on-site mental health consultation involving the mental health professional, program staff, and parents on how to:

(i) Design and implement program practices responsive to the identified behavioral and mental health concerns of an individual child or group of children;

(ii) Promote children's mental wellness by providing group and individual staff and parent education on mental health issues;

(iii) Assist in providing special help for children with atypical behavior or development; and

(iv) Utilize other community mental health resources, as needed.

Subpart C—Family and Community Partnerships

§ 1304.40 Family partnerships.

(a) *Family goal setting.* (1) Grantee and delegate agencies must engage in a process of collaborative partnership-building with parents to establish mutual trust and to identify family goals, strengths, and necessary services and other supports. This process must be initiated as early after enrollment as possible and it must take into consideration each family's readiness and willingness to participate in the process.

(2) As part of this ongoing partnership, grantee and delegate agencies must offer parents opportunities to develop and implement individualized Family Partnership Agreements that describe family goals, responsibilities, timetables and strategies for achieving these goals as well as progress in achieving them. In home-based program options, this Agreement must include the above information as well as the specific roles of parents in home visits and group socialization activities (see 45 CFR 1306.33(b)).

(3) To avoid duplication of effort, or conflict with, any preexisting family plans developed between other programs and the Early Head Start or Head Start family, the Family Partnership Agreement must take into account, and build upon as appropriate, information obtained from the family and other community agencies concerning preexisting family plans. Grantee and delegate agencies must coordinate, to the extent possible, with families and other agencies to support the accomplishment of goals in the preexisting plans.

(4) A variety of opportunities must be created by grantee and delegate agencies for interaction with parents throughout the year.

(5) Meetings and interactions with families must be respectful of each family's diversity and cultural and ethnic background.

(b) *Accessing community services and resources.* (1) Grantee and delegate agencies must work collaboratively with all participating parents to identify and continually access, either directly or through referrals, services and resources that are responsive to each family's interests and goals, including:

(i) Emergency or crisis assistance in areas such as food, housing, clothing, and transportation;

(ii) Education and other appropriate interventions, including opportunities for parents to participate in counseling programs or to receive information on mental health issues that place families at risk, such as substance abuse, child abuse and neglect, and domestic violence; and

(iii) Opportunities for continuing education and employment training and other employment services through formal and informal networks in the community.

(2) Grantee and delegate agencies must follow-up with each family to determine whether the kind, quality, and timeliness of the services received

through referrals met the families' expectations and circumstances.

(c) *Services to pregnant women who are enrolled in programs serving pregnant women, infants, and toddlers.* (1) Early Head Start grantee and delegate agencies must assist pregnant women to access comprehensive prenatal and postpartum care, through referrals, immediately after enrollment in the program. This care must include:

(i) Early and continuing risk assessments, which include an assessment of nutritional status as well as nutrition counseling and food assistance, if necessary;

(ii) Health promotion and treatment, including medical and dental examinations on a schedule deemed appropriate by the attending health care providers as early in the pregnancy as possible; and

(iii) Mental health interventions and follow-up, including substance abuse prevention and treatment services, as needed.

(2) Grantee and delegate agencies must provide pregnant women and other family members, as appropriate, with prenatal education on fetal development (including risks from smoking and alcohol), labor and delivery, and postpartum recovery (including maternal depression).

(3) Grantee and delegate agencies must provide information on the benefits of breast feeding to all pregnant and nursing mothers. For those who choose to breast feed in center-based programs, arrangements must be provided as necessary.

(d) *Parent involvement—general.* (1) In addition to involving parents in program policy-making and operations (see 45 CFR 1304.50), grantee and delegate agencies must provide parent involvement and education activities that are responsive to the ongoing and expressed needs of the parents, both as individuals and as members of a group. Other community agencies should be encouraged to assist in the planning and implementation of such programs.

(2) Early Head Start and Head Start settings must be open to parents during all program hours. Parents must be welcomed as visitors and encouraged to observe children as often as possible and to participate with children in group activities. The participation of parents in any program activity must be voluntary, and must not be required as a condition of the child's enrollment.

(3) Grantee and delegate agencies must provide parents with opportunities to participate in the program as employees or volunteers (see 45 CFR 1304.52(b)(3) for additional requirements about hiring parents).

(e) *Parent involvement in child development and education.* (1) Grantee and delegate agencies must provide opportunities to include parents in the development of the program's curriculum and approach to child development and education (see 45 CFR 1304.3(a)(5) for a definition of curriculum).

(2) Grantees and delegate agencies operating home-based program options must build upon the principles of adult learning to assist, encourage, and support parents as they foster the growth and development of their children.

(3) Grantee and delegate agencies must provide opportunities for parents to enhance their parenting skills, knowledge, and understanding of the educational and developmental needs and activities of their children and to share concerns about their children with program staff (see 45 CFR 1304.21 for additional requirements related to parent involvement).

(4) Grantee and delegate agencies must provide, either directly or through referrals to other local agencies, opportunities for children and families to participate in family literacy services by:

(i) Increasing family access to materials, services, and activities essential to family literacy development; and

(ii) Assisting parents as adult learners to recognize and address their own literacy goals.

(5) In addition to the two home visits, teachers in center-based programs must conduct staff-parent conferences, as needed, but no less than two per program year, to enhance the knowledge and understanding of both staff and parents of the educational and developmental progress and activities of children in the program (see 45 CFR 1304.21(a)(2)(iii) and 45 CFR 1304.40(i) for additional requirements about staff-parent conferences and home visits).

(f) *Parent involvement in health, nutrition, and mental health education.* (1) Grantee and delegate agencies must provide medical, dental, nutrition, and mental health education programs for program staff, parents, and families.

(2) Grantee and delegate agencies must ensure that, at a minimum, the medical and dental health education program:

(i) Assists parents in understanding how to enroll and participate in a system of ongoing family health care.

(ii) Encourages parents to become active partners in their children's medical and dental health care process and to accompany their child to medical and dental examinations and appointments; and

(iii) Provides parents with the opportunity to learn the principles of preventive medical and dental health, emergency first-aid, occupational and environmental hazards, and safety practices for use in the classroom and in the home. In addition to information on general topics (e.g., maternal and child health and the prevention of Sudden Infant Death Syndrome), information specific to the health needs of individual children must also be made available to the extent possible.

(3) Grantee and delegate agencies must ensure that the nutrition education program includes, at a minimum:

(i) Nutrition education in the selection and preparation of foods to meet family needs and in the management of food budgets; and

(ii) Parent discussions with program staff about the nutritional status of their child.

(4) Grantee and delegate agencies must ensure that the mental health education program provides, at a minimum (see 45 CFR 1304.24 for issues related to mental health education):

(i) A variety of group opportunities for parents and program staff to identify and discuss issues related to child mental health;

(ii) Individual opportunities for parents to discuss mental health issues related to their child and family with program staff; and

(iii) The active involvement of parents in planning and implementing any mental health interventions for their children.

(g) *Parent involvement in community advocacy.* (1) Grantee and delegate agencies must:

(i) Support and encourage parents to influence the character and goals of community services in order to make them more responsive to their interests and needs; and

(ii) Establish procedures to provide families with comprehensive information about community resources (see 45 CFR 1304.41(a)(2) for additional requirements).

(2) Parents must be provided regular opportunities to work together, and with other community members, on activities that they have helped develop and in which they have expressed an interest.

(h) *Parent involvement in transition activities.* (1) Grantee and delegate agencies must assist parents in becoming their children's advocate as they transition both into Early Head Start or Head Start from the home or other child care setting, and from Head Start to elementary school, a Title I of

the Elementary and Secondary Education Act preschool program, or a child care setting.

(2) Staff must work to prepare parents to become their children's advocate through transition periods by providing that, at a minimum, a staff-parent meeting is held toward the end of the child's participation in the program to enable parents to understand the child's progress while enrolled in Early Head Start or Head Start.

(3) To promote the continued involvement of Head Start parents in the education and development of their children upon transition to school, grantee and delegate agencies must:

(i) Provide education and training to parents to prepare them to exercise their rights and responsibilities concerning the education of their children in the school setting; and

(ii) Assist parents to communicate with teachers and other school personnel so that parents can participate in decisions related to their children's education.

(4) See 45 CFR 1304.41(c) for additional standards related to children's transition to and from Early Head Start or Head Start.

(i) *Parent involvement in home visits.* (1) Grantee and delegate agencies must not require that parents permit home visits as a condition of the child's participation in Early Head Start or Head Start center-based program options. Every effort must be made to explain the advantages of home visits to the parents.

(2) The child's teacher in center-based programs must make no less than two home visits per program year to the home of each enrolled child, unless the parents expressly forbid such visits, in accordance with the requirements of 45 CFR 1306.32(b)(8). Other staff working with the family must make or join home visits, as appropriate.

(3) Grantee and delegate agencies must schedule home visits at times that are mutually convenient for the parents or primary caregivers and staff.

(4) In cases where parents whose children are enrolled in the center-based program option ask that the home visits be conducted outside the home, or in cases where a visit to the home presents significant safety hazards for staff, the home visit may take place at an Early Head Start or Head Start site or at another safe location that affords privacy. Home visits in home-based program options must be conducted in the family's home.

(5) In addition, grantee and delegate agencies operating home-based program options must meet the requirements of 45 CFR 1306.33(a)(1) regarding home visits.

(6) Grantee and delegate agencies serving infants and toddlers must arrange for health staff to visit each newborn within two weeks after the infant's birth to ensure the well-being of both the mother and the child.

§ 1304.41 Community partnerships.

(a) *Partnerships.* (1) Grantee and delegate agencies must take an active role in community planning to encourage strong communication, cooperation, and the sharing of information among agencies and their community partners and to improve the delivery of community services to children and families in accordance with the agency's confidentiality policies. Documentation must be maintained to reflect the level of effort undertaken to establish community partnerships (see 45 CFR 1304.51 for additional planning requirements).

(2) Grantee and delegate agencies must take affirmative steps to establish ongoing collaborative relationships with community organizations to promote the access of children and families to community services that are responsive to their needs, and to ensure that Early Head Start and Head Start programs respond to community needs, including:

(i) Health care providers, such as clinics, physicians, dentists, and other health professionals;

(ii) Mental health providers;

(iii) Nutritional service providers;

(iv) Individuals and agencies that provide services to children with disabilities and their families (see 45 CFR 1308.4 for specific service requirements);

(v) Family preservation and support services;

(vi) Child protective services and any other agency to which child abuse must be reported under State or Tribal law;

(vii) Local elementary schools and other educational and cultural institutions, such as libraries and museums, for both children and families;

(viii) Providers of child care services; and

(ix) Any other organizations or businesses that may provide support and resources to families.

(3) Grantee and delegate agencies must perform outreach to encourage volunteers from the community to participate in Early Head Start and Head Start programs.

(4) To enable the effective participation of children with disabilities and their families, grantee and delegate agencies must make specific efforts to develop interagency agreements with local education agencies (LEAs) and other agencies within the grantee and delegate agency's service area (see 45 CFR 1308.4(h) for specific requirements concerning interagency agreements).

(b) *Advisory committees.* Each grantee directly operating an Early Head Start or Head Start program, and each delegate agency, must establish and maintain a Health Services Advisory Committee which includes professionals and volunteers from the community. Grantee and delegate agencies also must establish and maintain such other service advisory committees as they deem appropriate to address program service issues such as community partnerships and to help agencies respond to community needs.

(c) *Transition services.* (1) Grantee and delegate agencies must establish and maintain procedures to support successful transitions for enrolled children and families from previous child care programs into Early Head Start or Head Start and from Head Start into elementary school, a Title I of the Elementary and Secondary Education Act preschool program, or other child care settings. These procedures must include:

(i) Coordinating with the schools or other agencies to ensure that individual Early Head Start or Head Start children's relevant records are transferred to the school or next placement in which a child will enroll or from earlier placements to Early Head Start or Head Start;

(ii) Outreach to encourage communication between Early Head Start or Head Start staff and their counterparts in the schools and other child care settings including principals, teachers, social workers and health staff to facilitate continuity of programming;

(iii) Initiating meetings involving Head Start teachers and parents and kindergarten or elementary school teachers to discuss the developmental progress and abilities of individual children; and

(iv) Initiating joint transition-related training for Early Head Start or Head Start staff and school or other child development staff.

(2) To ensure the most appropriate placement and services following participation in Early Head Start, transition planning must be undertaken for each child and family at least six months prior to the child's third birthday. The process must take into account: The child's health status and developmental level, progress made by the child and family while in Early Head Start, current and changing family circumstances, and the availability of

Head Start and other child development or child care services in the community. As appropriate, a child may remain in Early Head Start, following his or her third birthday, for additional months until he or she can transition into Head Start or another program.

(3) See 45 CFR 1304.40(h) for additional requirements related to parental participation in their child's transition to and from Early Head Start or Head Start.

Subpart D—Program Design and Management

§ 1304.50 Program governance.

(a) *Policy Council, Policy Committee, and Parent Committee structure.* (1) Grantee and delegate agencies must establish and maintain a formal structure of shared governance through which parents can participate in policy making or in other decisions about the program. This structure must consist of the following groups, as required:

(i) Policy Council. This Council must be established at the grantee level.

(ii) Policy Committee. This Committee must be established at the delegate agency level when the program is administered in whole or in part by such agencies (see 45 CFR 1301.2 for a definition of a delegate agency).

(iii) Parent Committee. For center-based programs, this Committee must be established at the center level. For other program options, an equivalent Committee must be established at the local program level. When programs operate more than one option from the same site, the Parent Committee membership is combined unless parents choose to have a separate Committee for each option.

(2) Parent Committees must be comprised exclusively of the parents of children currently enrolled at the center level for center-based programs or at the equivalent level for other program options (see 45 CFR 1306.3(h) for a definition of a Head Start parent).

(3) All Policy Councils, Policy Committees, and Parent Committees must be established as early in the program year as possible. Grantee Policy Councils and delegate Policy Committees may not be dissolved until successor Councils or Committees are elected and seated.

(4) When a grantee has delegated the entire Head Start program to one delegate agency, it is not necessary to have a Policy Committee in addition to a grantee agency Policy Council.

(5) The governing body (the group with legal and fiscal responsibility for administering the Early Head Start or Head Start program) and the Policy Council or Policy Committee must not have identical memberships and functions.

(b) *Policy group composition and formation.* (1) Each grantee and delegate agency governing body operating an Early Head Start or Head Start program must (except where such authority is ceded to the Policy Council or Policy Committee) propose, within the framework of these regulations, the total size of their respective policy groups (based on the number of centers, classrooms or other program option units, and the number of children served by their Early Head Start or Head Start program), the procedures for the election of parent members, and the procedure for the selection of community representatives. These proposals must be approved by the Policy Council or Policy Committee.

(2) Policy Councils and Policy Committees must be comprised of two types of representatives: parents of currently enrolled children and community representatives. At least 51 percent of the members of these policy groups must be the parents of currently enrolled children (see 45 CFR 1306.3(h) for a definition of a Head Start parent).

(3) Community representatives must be drawn from the local community: businesses; public or private community, civic, and professional organizations; and others who are familiar with resources and services for low-income children and families. Community representatives may include the parents of formerly enrolled children.

(4) All parent members of Policy Councils or Policy Committees must stand for election or re-election annually. All community representatives also must be selected annually.

(5) Policy Councils and Policy Committees must limit the number of one-year terms any individual may serve on either body to a combined total of three terms.

(6) No grantee or delegate agency staff (or members of their immediate families) may serve on Policy Councils or Policy Committees except parents who occasionally substitute for regular Early Head Start or Head Start staff. In the case of Tribal grantees, this exclusion applies only to Tribal staff who work in areas directly related to or which directly impact upon any Early Head Start or Head Start administrative, fiscal or programmatic issues.

(7) Parents of children currently enrolled in all program options must be proportionately represented on established policy groups.

(c) *Policy group responsibilities—general.* At a minimum policy groups must be charged with the responsibilities described in paragraphs (d), (f), (g), and (h) of this section and repeated in appendix A of this section.

(d) *The Policy Council or Policy Committee.* (1) Policy Councils and Policy Committees must work in partnership with key management staff and the governing body to develop, review, and approve or disapprove the following policies and procedures:

(i) All funding applications and amendments to funding applications for Early Head Start and Head Start, including administrative services, prior to the submission of such applications to the grantee (in the case of Policy Committees) or to HHS (in the case of Policy Councils);

(ii) Procedures describing how the governing body and the appropriate policy group will implement shared decision-making;

(iii) Procedures for program planning in accordance with this part and the requirements of 45 CFR 1305.3 (this regulation is binding on Policy Councils exclusively);

(iv) The program's philosophy and long- and short-range program goals and objectives (see 45 CFR 1304.51(a) and 45 CFR 1305.3 for additional requirements regarding program planning);

(v) The selection of delegate agencies and their service areas (this regulation is binding on Policy Councils exclusively) (see 45 CFR 1301.33 and 45 CFR 1305.3(a) for additional requirements about delegate agency and service area selection, respectively);

(vi) The composition of the Policy Council or the Policy Committee and the procedures by which policy group members are chosen;

(vii) Criteria for defining recruitment, selection, and enrollment priorities, in accordance with the requirements of 45 CFR part 1305;

(viii) The annual self-assessment of the grantee or delegate agency's progress in carrying out the programmatic and fiscal intent of its grant application, including planning or other actions that may result from the review of the annual audit and findings from the Federal monitoring review (see 45 CFR 1304.51(i)(1) for additional requirements about the annual self-assessment);

(ix) The annual independent audit that must be conducted in accordance with 45 CFR 1301.12;

(x) Program personnel policies and subsequent changes to those policies, in accordance with 45 CFR 1301.31, including standards of conduct for

program staff, consultants, and volunteers;

(xi) Decisions to hire or terminate the Early Head Start or Head Start director of the grantee or delegate agency; and

(xii) Decisions to hire or terminate any person who works primarily for the Early Head Start or Head Start program of the grantee or delegate agency.

(2) In addition, Policy Councils and Policy Committees must perform the following functions directly:

(i) Serve as a link to the Parent Committees, grantee and delegate agency governing bodies, public and private organizations, and the communities they serve;

(ii) Assist Parent Committees in communicating with parents enrolled in all program options to ensure that they understand their rights, responsibilities, and opportunities in Early Head Start and Head Start and to encourage their participation in the program;

(iii) Assist Parent Committees in planning, coordinating, and organizing program activities for parents with the assistance of staff, and ensuring that funds set aside from program budgets are used to support parent activities;

(iv) Assist in recruiting volunteer services from parents, community residents, and community organizations, and assist in the mobilization of community resources to meet identified needs; and

(v) Establish and maintain procedures for working with the grantee or delegate agency to resolve community complaints about the program.

(e) *Parent Committee.* The Parent Committee must carry out at least the following minimum responsibilities:

(1) Advise staff in developing and implementing local program policies, activities, and services;

(2) Plan, conduct, and participate in informal as well as formal programs and activities for parents and staff; and

(3) Within the guidelines established by the Governing Board, Policy Council, or Policy Committee, participate in the recruitment and screening of Early Head Start and Head Start employees.

(f) *Policy Council, Policy Committee, and Parent Committee reimbursement.* Grantee and delegate agencies must enable low-income members to participate fully in their group responsibilities by providing, if necessary, reimbursements for reasonable expenses incurred by the members.

(g) *Governing body responsibilities.* (1) Grantee and delegate agencies must have written policies that define the roles and responsibilities of the governing body members and that inform them of the management procedures and functions necessary to implement a high quality program.

(2) Grantee and delegate agencies must ensure that appropriate internal controls are established and implemented to safeguard Federal funds in accordance with 45 CFR 1301.13.

(h) *Internal dispute resolution.* Each grantee and delegate agency and Policy Council or Policy Committee jointly must establish written procedures for resolving internal disputes, including impasse procedures, between the governing body and policy group.

Appendix A—Governance and Management Responsibilities

[A=General responsibility; B=Operating responsibility; C=Must approve or disapprove; D=Determined locally]

Function	Grantee agency		Delegate agency		Grantee or delegate management staff	
	Governing body	Policy council	Governing body	Policy cmte.	HS* program director	Agency director
I. Planning						
(a) 1304.50(d)(1)(iii) Procedures for program planning in accordance with this Part and the requirements of 45 CFR 1305.3 (this regulation is binding on Policy Councils exclusively).	A & C	C	C	C	B	D
(b) 1304.50(d)(1)(iv) The program's philosophy and long- and short-range program goals and objectives (see 45 CFR 1304.51(a) and 45 CFR 1305.3 for additional requirements regarding program planning).	A & C	C	C	C	B	D
(c) 1304.50(d)(1)(v) The selection of delegate agencies and their service areas (this regulation is binding on Policy Councils exclusively) (see 45 CFR 1301.33 and 45 CFR 1305.3(a) for additional requirements about delegate agency and service area selection, respectively).	A & C	C	—	—	B (Grantee only)	D (Grantee only)
(d) 1304.50(d)(1)(vii) Criteria for defining recruitment, selection, and enrollment priorities, in accordance with the requirements of 45 CFR Part 1305.	A	C	A	C	B	D
(e) 1304.50(d)(1)(i) All funding applications and amendments to funding applications for Early Head Start and Head Start, including administrative services, prior to the submission of such applications to the grantee (in the case of Policy Committees) or to HHS (in the case of Policy Councils).	A & C	C	A & C	C	B	D
(f) 1304.50(f) Policy Council, Policy Committee, and Parent Committee reimbursement. Grantee and delegate agencies must enable low-income members to participate fully in their group responsibilities by providing, if necessary, reimbursements for reasonable expenses incurred by the members.	A	C	A	C	B	D

[A=General responsibility; B=Operating responsibility; C=Must approve or disapprove; D=Determined locally]

Function	Grantee agency		Delegate agency		Grantee or delegate management staff	
	Governing body	Policy council	Governing body	Policy cmte.	HS* program director	Agency director
(g) 1304.50(d)(1)(viii) The annual self-assessment of the grantee or delegate agency's progress in carrying out the programmatic and fiscal intent of its grant application, including planning or other actions that may result from the review of the annual audit and findings from the Federal monitoring review (see 45 CFR 1304.51(i)(1) for additional requirements about the annual self-assessment).	A	C	A	C	B	D
II. General Procedures						
(a) 1304.50(d)(1)(vi) The composition of the Policy Council or the Policy Committee and the procedures by which policy group members are chosen.	A & C	C	A & C	C	B	D
(b) 1304.50(g)(1) Grantee and delegate agencies must have written policies that define the roles and responsibilities of the governing body members and that inform them of the management procedures and functions necessary to implement a high quality program.	A & C	C	A & C	C	—	D
(c) 1304.50(d)(1)(ii) Procedures describing how the governing body and the appropriate policy group will implement shared decision-making.	A & C	C	A & C	C	D	D
(d) 1304.50(h) Internal dispute resolution. Each grantee and delegate agency and Policy Council or Policy Committee jointly must establish written procedures for resolving internal disputes, including impasse procedures, between the governing body and policy group.	A & C	C	A & C	C	D	D
(e) 1304.50(d)(2)(v) Establish and maintain procedures for hearing and working with the grantee or delegate agency to resolve community complaints about the program.	B	B	B	B	D	D
(f) 1304.50(g)(2) Grantee and delegate agencies must ensure that appropriate internal controls are established and implemented to safeguard Federal funds in accordance with 45 CFR 1301.13.	A	—	A	—	D	D
(g) 1304.50(d)(1)(ix) The annual independent audit that must be conducted in accordance with 45 CFR 1301.12.	A	—	A	—	D	D
III. Human Resources Management						
(a) 1304.50(d)(1)(x) Program personnel policies and subsequent changes to those policies, in accordance with 45 CFR 1301.31, including standards of conduct for program staff, consultants, and volunteers.	A & C	C	A & C	C	D	D
(b) 1304.50(d)(1)(xi) Decisions to hire or terminate the Early Head Start or Head Start director of the grantee agency.	A & C	C	—	—	—	D
(c) 1304.50(d)(1)(xii) Decisions to hire or terminate any person who works primarily for the Early Head Start or Head Start program of the grantee agency.	C	C	—	—	B (Grantee only)	D
(d) 1304.50(d)(1)(xi) Decisions to hire or terminate the Early Head Start or Head Start director of the delegate agency.	—	—	A & C	C	—	D
(e) 1304.50(d)(1)(xii) Decisions to hire or terminate any person who works primarily for the Early Head Start or Head Start program of the delegate agency.	—	—	C	C	B (Delegate only)	D

KEY AND DEFINITIONS AS USED IN CHART

*When a grantee or delegate agency operates an Early Head Start program only and not an Early Head Start and a Head Start program, these responsibilities apply to the Early Head Start Director.

A. General Responsibility. The group with legal and fiscal responsibility that guides and oversees the carrying out of the functions described through the individual or group given operating responsibility.

B. Operating Responsibility. The individual or group that is directly responsible for carrying out or performing the functions consistent with the general guidance and oversight from the group holding general responsibility.

C. Must Approve or Disapprove. The group that must be involved in the decision-making process prior to the point of seeking approval. If it does not approve, a proposal cannot be adopted, or the proposed action taken, until agreement is reached between the disagreeing groups.

D. Determined locally. Management staff functions as determined by the local governing body and in accordance with all Head Start regulations.

§ 1304.51 Management systems and procedures.

(a) *Program planning.* (1) Grantee and delegate agencies must develop and implement a systematic, ongoing process of program planning that includes consultation with the program's governing body, policy groups, and program staff, and with other community organizations that serve Early Head Start and Head Start or other low-income families with young children. Program planning must include:

(i) An assessment of community strengths, needs and resources through completion of the Community Assessment, in accordance with the requirements of 45 CFR 1305.3;

(ii) The formulation of both multi-year (long-range) program goals and short-term program and financial objectives that address the findings of the Community Assessment, are consistent with the philosophy of Early Head Start and Head Start, and reflect the findings of the program's annual self-assessment; and

(iii) The development of written plan(s) for implementing services in each of the program areas covered by this part (e.g., Early Childhood Development and Health Services, Family and Community Partnerships, and Program Design and Management).

(2) All written plans for implementing services, and the progress in meeting them, must be reviewed by the grantee or delegate agency staff and reviewed and approved by the Policy Council or Policy Committee at least annually, and must be revised and updated as needed.

(b) *Communications—general.* Grantee and delegate agencies must establish and implement systems to ensure that timely and accurate information is provided to parents, policy groups, staff, and the general community.

(c) *Communication with families.* (1) Grantee and delegate agencies must ensure that effective two-way comprehensive communications between staff and parents are carried out on a regular basis throughout the program year.

(2) Communication with parents must be carried out in the parents' primary or preferred language or through an interpreter, to the extent feasible.

(d) *Communication with governing bodies and policy groups.* Grantee and delegate agencies must ensure that the following information is provided regularly to their grantee and delegate governing bodies and to members of their policy groups:

(1) Procedures and timetables for program planning;

(2) Policies, guidelines, and other communications from HHS;

(3) Program and financial reports; and

(4) Program plans, policies, procedures, and Early Head Start and Head Start grant applications.

(e) *Communication among staff.* Grantee and delegate agencies must have mechanisms for regular communication among all program staff to facilitate quality outcomes for children and families.

(f) *Communication with delegate agencies.* Grantees must have a procedure for ensuring that delegate agency governing bodies, Policy Committees, and all staff receive all regulations, policies, and other pertinent communications in a timely manner.

(g) *Record-keeping systems.* Grantee and delegate agencies must establish and maintain efficient and effective record-keeping systems to provide accurate and timely information regarding children, families, and staff and must ensure appropriate confidentiality of this information.

(h) *Reporting systems.* Grantee and delegate agencies must establish and maintain efficient and effective reporting systems that:

(1) Generate periodic reports of financial status and program operations in order to control program quality, maintain program accountability, and advise governing bodies, policy groups, and staff of program progress; and

(2) Generate official reports for Federal, State, and local authorities, as required by applicable law.

(i) *Program self-assessment and monitoring.* (1) At least once each program year, with the consultation and participation of the policy groups and, as appropriate, other community members, grantee and delegate agencies must conduct a self-assessment of their effectiveness and progress in meeting program goals and objectives and in implementing Federal regulations.

(2) Grantees must establish and implement procedures for the ongoing monitoring of their own Early Head Start and Head Start operations, as well as those of each of their delegate agencies, to ensure that these operations effectively implement Federal regulations.

(3) Grantees must inform delegate agency governing bodies of any deficiencies in delegate agency operations identified in the monitoring review and must help them develop plans, including timetables, for addressing identified problems.

§ 1304.52 Human resources management.

(a) *Organizational structure.* (1) Grantee and delegate agencies must establish and maintain an organizational structure that supports the accomplishment of program objectives. This structure must address the major functions and responsibilities assigned to each staff position and must provide evidence of adequate mechanisms for staff supervision and support.

(2) At a minimum, grantee and delegate agencies must ensure that the following program management functions are formally assigned to and adopted by staff within the program:

(i) Program management (the Early Head Start or Head Start director);

(ii) Management of early childhood development and health services, including child development and education; child medical, dental, and mental health; child nutrition; and, services for children with disabilities; and

(iii) Management of family and community partnerships, including parent activities.

(b) *Staff qualifications—general.* (1) Grantee and delegate agencies must ensure that staff and consultants have the knowledge, skills, and experience they need to perform their assigned functions responsibly.

(2) In addition, grantee and delegate agencies must ensure that only candidates with the qualifications specified in this part and in 45 CFR 1306.21 are hired.

(3) Current and former Early Head Start and Head Start parents must receive preference for employment vacancies for which they are qualified.

(4) Staff and program consultants must be familiar with the ethnic background and heritage of families in the program and must be able to serve and effectively communicate, to the extent feasible, with children and families with no or limited English proficiency.

(c) *Early Head Start or Head Start director qualifications.* The Early Head Start or Head Start director must have demonstrated skills and abilities in a management capacity relevant to human services program management.

(d) *Qualifications of content area experts.* Grantee and delegate agencies must hire staff or consultants who meet the qualifications listed below to provide content area expertise and oversight on an ongoing or regularly scheduled basis. Agencies must determine the appropriate staffing pattern necessary to provide these functions.

(1) Education and child development services must be supported by staff or

consultants with training and experience in areas that include: The theories and principles of child growth and development, early childhood education, and family support. In addition, staff or consultants must meet the qualifications for classroom teachers, as specified in section 648A of the Head Start Act and any subsequent amendments regarding the qualifications of teachers.

(2) Health services must be supported by staff or consultants with training and experience in public health, nursing, health education, maternal and child health, or health administration. In addition, when a health procedure must be performed only by a licensed/certified health professional, the agency must assure that the requirement is followed.

(3) Nutrition services must be supported by staff or consultants who are registered dietitians or nutritionists.

(4) Mental health services must be supported by staff or consultants who are licensed or certified mental health professionals with experience and expertise in serving young children and their families.

(5) Family and community partnership services must be supported by staff or consultants with training and experience in field(s) related to social, human, or family services.

(6) Parent involvement services must be supported by staff or consultants with training, experience, and skills in assisting the parents of young children in advocating and decision-making for their families.

(7) Disabilities services must be supported by staff or consultants with training and experience in securing and individualizing needed services for children with disabilities.

(8) Grantee and delegate agencies must secure the regularly scheduled or ongoing services of a qualified fiscal officer.

(e) *Home visitor qualifications.* Home visitors must have knowledge and experience in child development and early childhood education; the principles of child health, safety, and nutrition; adult learning principles; and family dynamics. They must be skilled in communicating with and motivating people. In addition, they must have knowledge of community resources and the skills to link families with appropriate agencies and services.

(f) Infant and toddler staff qualifications. Early Head Start and Head Start staff working as teachers with infants and toddlers must obtain a Child Development Associate (CDA) credential for Infant and Toddler Caregivers or an equivalent credential that addresses comparable competencies within one year of the effective date of the final rule or, thereafter, within one year of hire as a teacher of infants and toddlers. In addition, infants and toddler teachers must have the training and experience necessary to develop consistent, stable, and supportive relationships with very young children. The training must develop knowledge of infant and toddler development, safety issues in infant and toddler care (e.g., reducing the risk of Sudden Infant Death Syndrome), and methods for communicating effectively with infants and toddlers, their parents, and other staff members.

(g) *Classroom staffing and home visitors.* (1) Grantee and delegate agencies must meet the requirements of 45 CFR 1306.20 regarding classroom staffing.

(2) When a majority of children speak the same language, at least one classroom staff member or home visitor interacting regularly with the children must speak their language.

(3) For center-based programs, the class size requirements specified in 45 CFR 1306.32 must be maintained through the provision of substitutes when regular classroom staff are absent.

(4) Grantee and delegate agencies must ensure that each teacher working exclusively with infants and toddlers has responsibility for no more than four infants and toddlers and that no more than eight infants and toddlers are placed in any one group. However, if State, Tribal or local regulations specify staff:child ratios and group sizes more stringent than this requirement, the State, Tribal or local regulations must apply.

(5) Staff must supervise the outdoor and indoor play areas in such a way that children's safety can be easily monitored and ensured.

(h) *Standards of conduct.* (1) Grantee and delegate agencies must ensure that all staff, consultants, and volunteers abide by the program's standards of conduct. These standards must specify that:

(i) They will respect and promote the unique identity of each child and family and refrain from stereotyping on the basis of gender, race, ethnicity, culture, religion, or disability;

(ii) They will follow program confidentiality policies concerning information about children, families, and other staff members;

(iii) No child will be left alone or unsupervised while under their care; and

(iv) They will use positive methods of child guidance and will not engage in corporal punishment, emotional or physical abuse, or humiliation. In addition, they will not employ methods of discipline that involve isolation, the use of food as punishment or reward, or the denial of basic needs.

(2) Grantee and delegate agencies must ensure that all employees engaged in the award and administration of contracts or other financial awards sign statements that they will not solicit or accept personal gratuities, favors, or anything of significant monetary value from contractors or potential contractors.

(3) Personnel policies and procedures must include provision for appropriate penalties for violating the standards of conduct.

(i) *Staff performance appraisals.* Grantee and delegate agencies must, at a minimum, perform annual performance reviews of each Early Head Start and Head Start staff member and use the results of these reviews to identify staff training and professional development needs, modify staff performance agreements, as necessary, and assist each staff member in improving his or her skills and professional competencies.

(j) *Staff and volunteer health.* (1) Grantee and delegate agencies must assure that each staff member has an initial health examination that includes screening for tuberculosis and a periodic re-examination (as recommended by their health care provider or as mandated by State, Tribal, or local laws) so as to assure that they do not, because of communicable diseases, pose a significant risk to the health or safety of others in the Early Head Start or Head Start program that cannot be eliminated or reduced by reasonable accommodation. This requirement must be implemented consistent with the requirements of the Americans with Disabilities Act and section 504 of the Rehabilitation Act.

(2) Regular volunteers must be screened for tuberculosis in accordance with State, Tribal or local laws. In the absence of State, Tribal or local law, the Health Services Advisory Committee must be consulted regarding the need for such screenings (see 45 CFR 1304.3(20) for a definition of volunteer).

(3) Grantee and delegate agencies must make mental health and wellness information available to staff with concerns that may affect their job performance.

(k) *Training and development.* (1) Grantee and delegate agencies must provide an orientation to all new staff, consultants, and volunteers that includes, at a minimum, the goals and underlying philosophy of Early Head Start and/or Head Start and the ways in

which they are implemented by the program.

(2) Grantee and delegate agencies must establish and implement a structured approach to staff training and development, attaching academic credit whenever possible. This system should be designed to help build relationships among staff and to assist staff in acquiring or increasing the knowledge and skills needed to fulfill their job responsibilities, in accordance with the requirements of 45 CFR 1306.23.

(3) At a minimum, this system must include ongoing opportunities for staff to acquire the knowledge and skills necessary to implement the content of the Head Start Program Performance Standards. This program must also include:

(i) Methods for identifying and reporting child abuse and neglect that comply with applicable State and local laws using, so far as possible, a helpful rather than a punitive attitude toward abusing or neglecting parents and other caretakers; and

(ii) Methods for planning for successful child and family transitions to and from the Early Head Start or Head Start program.

(4) Grantee and delegate agencies must provide training or orientation to Early Head Start and Head Start governing body members. Agencies must also provide orientation and ongoing training to Early Head Start and Head Start Policy Council and Policy Committee members to enable them to carry out their program governance responsibilities effectively.

§ 1304.53 Facilities, materials, and equipment.

(a) *Head Start physical environment and facilities.* (1) Grantee and delegate agencies must provide a physical environment and facilities conducive to learning and reflective of the different stages of development of each child.

(2) Grantee and delegate agencies must provide appropriate space for the conduct of all program activities (see 45 CFR 1308.4 for specific access requirements for children with disabilities).

(3) The center space provided by grantee and delegate agencies must be organized into functional areas that can be recognized by the children and that allow for individual activities and social interactions.

(4) The indoor and outdoor space in Early Head Start or Head Start centers in use by mobile infants and toddlers must be separated from general walkways and from areas in use by preschoolers.

(5) Centers must have at least 35 square feet of usable indoor space per child available for the care and use of children (i.e., exclusive of bathrooms, halls, kitchen, staff rooms, and storage places) and at least 75 square feet of usable outdoor play space per child.

(6) Facilities owned or operated by Early Head Start and Head Start grantee or delegate agencies must meet the licensing requirements of 45 CFR 1306.30.

(7) Grantee and delegate agencies must provide for the maintenance, repair, safety, and security of all Early Head Start and Head Start facilities, materials and equipment.

(8) Grantee and delegate agencies must provide a center-based environment free of toxins, such as cigarette smoke, lead, pesticides, herbicides, and other air pollutants as well as soil and water contaminants. Agencies must ensure that no child is present during the spraying of pesticides or herbicides. Children must not return to the affected area until it is safe to do so.

(9) Outdoor play areas at center-based programs must be arranged so as to prevent any child from leaving the premises and getting into unsafe and unsupervised areas. Enroute to play areas, children must not be exposed to vehicular traffic without supervision.

(10) Grantee and delegate agencies must conduct a safety inspection, at least annually, to ensure that each facility's space, light, ventilation, heat, and other physical arrangements are consistent with the health, safety and developmental needs of children. At a minimum, agencies must ensure that:

(i) In climates where such systems are necessary, there is a safe and effective heating and cooling system that is insulated to protect children and staff from potential burns;

(ii) No highly flammable furnishings, decorations, or materials that emit highly toxic fumes when burned are used;

(iii) Flammable and other dangerous materials and potential poisons are stored in locked cabinets or storage facilities separate from stored medications and food and are accessible only to authorized persons. All medications, including those required for staff and volunteers, are labeled, stored under lock and key, refrigerated if necessary, and kept out of the reach of children;

(iv) Rooms are well lit and provide emergency lighting in the case of power failure;

(v) Approved, working fire extinguishers are readily available;

(vi) An appropriate number of smoke detectors are installed and tested regularly;

(vii) Exits are clearly visible and evacuation routes are clearly marked and posted so that the path to safety outside is unmistakable (see 45 CFR 1304.22 for additional emergency procedures);

(viii) Indoor and outdoor premises are cleaned daily and kept free of undesirable and hazardous materials and conditions;

(ix) Paint coatings on both interior and exterior premises used for the care of children do not contain hazardous quantities of lead;

(x) The selection, layout, and maintenance of playground equipment and surfaces minimize the possibility of injury to children;

(xi) Electrical outlets accessible to children prevent shock through the use of child-resistant covers, the installation of child-protection outlets, or the use of safety plugs;

(xii) Windows and glass doors are constructed, adapted, or adjusted to prevent injury to children;

(xiii) Only sources of water approved by the local or State health authority are used;

(xiv) Toilets and handwashing facilities are adequate, clean, in good repair, and easily reached by children. Toileting and diapering areas must be separated from areas used for cooking, eating, or children's activities;

(xv) Toilet training equipment is provided for children being toilet trained;

(xvi) All sewage and liquid waste is disposed of through a locally approved sewer system, and garbage and trash are stored in a safe and sanitary manner; and

(xvii) Adequate provisions are made for children with disabilities to ensure their safety, comfort, and participation.

(b) *Head Start equipment, toys, materials, and furniture.*

(1) Grantee and delegate agencies must provide and arrange sufficient equipment, toys, materials, and furniture to meet the needs and facilitate the participation of children and adults. Equipment, toys, materials, and furniture owned or operated by the grantee or delegate agency must be:

(i) Supportive of the specific educational objectives of the local program;

(ii) Supportive of the cultural and ethnic backgrounds of the children;

(iii) Age-appropriate, safe, and supportive of the abilities and developmental level of each child served, with adaptations, if necessary, for children with disabilities;

(iv) Accessible, attractive, and inviting to children;

(v) Designed to provide a variety of learning experiences and to encourage each child to experiment and explore;

(vi) Safe, durable, and kept in good condition; and

(vii) Stored in a safe and orderly fashion when not in use.

(2) Infant and toddler toys must be made of non-toxic materials and must be sanitized regularly.

(3) To reduce the risk of Sudden Infant Death Syndrome (SIDS), all sleeping arrangements for infants must use firm mattresses and avoid soft bedding materials such as comforters, pillows, fluffy blankets or stuffed toys.

Subpart E—Implementation and Enforcement

§ 1304.60 Deficiencies and quality improvement plans.

(a) Early Head Start and Head Start grantee and delegate agencies must comply with the requirements of this part in accordance with the effective date set forth in 45 CFR 1304.2.

(b) If the responsible HHS official, as a result of information obtained from a review of an Early Head Start or a Head Start grantee, determines that the grantee has one or more deficiencies, as defined in § 1304.3(a)(6) of this part, and therefore also is in violation of the minimum requirements as defined in § 1304.3(a)(14) of this part, he or she will notify the grantee promptly, in writing, of the finding, identifying the deficiencies to be corrected and, with respect to each identified deficiency, will inform the grantee that it must correct the deficiency either immediately or pursuant to a Quality Improvement Plan.

(c) An Early Head Start or Head Start grantee with one or more deficiencies to be corrected under a Quality Improvement Plan must submit to the responsible HHS official a Quality Improvement Plan specifying, for each identified deficiency, the actions that the grantee will take to correct the deficiency and the timeframe within which it will be corrected. In no case can the timeframes proposed in the Quality Improvement Plan exceed one year from the date that the grantee received official notification of the deficiencies to be corrected.

(d) Within 30 days of the receipt of the Quality Improvement Plan, the responsible HHS official will notify the Early Head Start or Head Start grantee, in writing, of the Plan's approval or specify the reasons why the Plan is disapproved.

(e) If the Quality Improvement Plan is disapproved, the Early Head Start or Head Start grantee must submit a revised Quality Improvement Plan, making the changes necessary to address the reasons that the initial Plan was disapproved.

(f) If an Early Head Start or Head Start grantee fails to correct a deficiency, either immediately, or within the timeframe specified in the approved Quality Improvement Plan, the responsible HHS official will issue a letter of termination or denial of refunding. Head Start grantees may appeal terminations and denials of refunding under 45 CFR part 1303, while Early Head Start grantees may appeal terminations and denials of refunding only under 45 CFR part 74 or part 92. A deficiency that is not timely corrected shall be a material failure of a grantee to comply with the terms and conditions of an award within the meaning of 45 CFR 74.61(a)(1), 45 CFR 74.62 and 45 CFR 92.43(a).

§ 1304.61 Noncompliance.

(a) If the responsible HHS official, as a result of information obtained from a review of an Early Head Start or Head Start grantee, determines that the grantee is not in compliance with Federal or State requirements (including, but not limited to, the Head Start Act or one or more of the regulations under parts 1301, 1304, 1305, 1306 or 1308 of this title) in ways that do not constitute a deficiency, he or she will notify the grantee promptly, in writing, of the finding, identifying the area or areas of noncompliance to be corrected and specifying the period in which they must corrected.

(b) Early Head Start or Head Start grantees which have received written notification of an area of noncompliance to be corrected must correct the area of noncompliance within the time period specified by the responsible HHS official. A grantee which is unable or unwilling to correct the specified areas of noncompliance within the prescribed time period will be judged to have a deficiency which must be corrected, either immediately or pursuant to a Quality Improvement Plan (see 45 CFR 1304.3(a)(6)(iii) and 45 CFR 1304.60).

PART 1301—HEAD START GRANTS ADMINISTRATION

2. The authority citation for part 1301 is revised to read as follows:

Authority: 42 U.S.C. 9801 et. seq.

3. Section 1301.31 is revised to read as follows:

§ 1301.31 Personnel policies.

(a) *Written policies.* Grantee and delegate agencies must establish and implement written personnel policies for staff, that are approved by the Policy Council or Policy Committee and that are made available to all grantee and delegate agency staff. At a minimum, such policies must include:

(1) Descriptions of each staff position, addressing, as appropriate, roles and responsibilities, relevant qualifications, salary range, and employee benefits (see 45 CFR 1304.52(c) and (d));

(2) A description of the procedures for recruitment, selection and termination (see paragraph (b) of this Section, Staff recruitment and selection procedures);

(3) Standards of conduct (see 45 CFR 1304.52(h));

(4) Descriptions of methods for providing staff and volunteers with opportunities for training, development, and advancement (see 45 CFR 1304.52(k), Training and development);

(5) A description of the procedures for conducting staff performance appraisals (see 45 CFR 1304.52(i), Staff performance appraisals);

(6) Assurances that the program is an equal opportunity employer and does not discriminate on the basis of gender, race, ethnicity, religion or disability; and

(7) A description of employee-management relation procedures, including those for managing employee grievances and adverse actions.

(b) *Staff recruitment and selection procedures.* (1) Before an employee is hired, grantee or delegate agencies must conduct:

(i) An interview with the applicant;

(ii) A verification of personal and employment references; and

(iii) A State or national criminal record check, as required by State law or administrative requirement. If it is not feasible to obtain a criminal record check prior to hiring, an employee must not be considered permanent until such a check has been completed.

(2) Grantee and delegate agencies must require that all current and prospective employees sign a declaration prior to employment that lists:

(i) All pending and prior criminal arrests and charges related to child sexual abuse and their disposition;

(ii) Convictions related to other forms of child abuse and neglect; and

(iii) All convictions of violent felonies.

(3) Grantee and delegate agencies must review each application for employment individually in order to assess the relevancy of an arrest, a pending criminal charge, or a conviction.

(c) *Declaration exclusions.* The declaration required by paragraph (b)(2) of this section may exclude:

(1) Traffic fines of $200.00 or less;

(2) Any offense, other than any offense related to child abuse and/or child sexual abuse or violent felonies, committed before the prospective employee's 18th birthday which was finally adjudicated in a juvenile court or under a youth offender law;

(3) Any conviction the record of which has been expunged under Federal or State law; and

(4) Any conviction set aside under the Federal Youth Corrections Act or similar State authority.

(d) *Probationary period.* The policies governing the recruitment and selection of staff must provide for a probationary period for all new employees that allows time to monitor employee performance and to examine and act on the results of the criminal record checks discussed in paragraph (b) (1) of this Section.

(e) *Reporting child abuse or sexual abuse.* Grantee and delegate agencies must develop a plan for responding to suspected or known child abuse or sexual abuse as defined in 45 CFR 1340.2(d) whether it occurs inside or outside of the program.

(Approved by the Office of Management and Budget under control number 0980–0173.)

PART 1303—APPEAL PROCEDURES FOR HEAD START GRANTEES AND CURRENT OR PROSPECTIVE DELEGATE AGENCIES

3. The authority citation for part 1303 continues to read as follows:

Authority: 42 U.S.C. 9801 et seq.

4. Section 1303.14 is amended by revising paragraph (b)(4) and republishing the introductory text to paragraph (b) to read as follows:

§ 1303.14 Appeal by a grantee from a termination of financial assistance.

* * * * *

(b) Financial assistance may be terminated for any or all of the following reasons:

* * * * *

(4) The grantee has failed to timely correct one or more deficiencies as defined in 45 CFR Part 1304;

* * * * *

PART 1305—ELIGIBILITY, RECRUITMENT, SELECTION, ENROLLMENT AND ATTENDANCE IN HEAD START

5. The authority citation for part 1305 continues to read as follows:

Authority: 42 U.S.C. 9801 et seq.

6. Section 1305.1 is amended by adding a sentence at the end to read as follows:

§ 1305.1 Purpose and scope.

* * * These requirements are to be used in conjunction with the Head Start Program Performance Standards at 45 CFR part 1304, as applicable.

7. Section 1305.3 is amended by revising the heading and revising paragraphs (b), introductory text, (c), introductory text, (d), and (f)(1) to read as follows:

§ 1305.3 Determining community strengths and needs.

* * * * *

(b) Each Early Head Start and Head Start grantee and delegate agency must conduct a Community Assessment within its service area once every three years. The Community Assessment must include the collection and analysis of the following information about the grantee's or delegate's Early Head Start or Head Start area:

* * * * *

(c) The Early Head Start and Head Start grantee and delegate agency must use information from the Community Assessment to:

* * * * *

(d) In each of the two years following completion of the Community Assessment the grantee or delegate agency must conduct a review to determine whether there have been significant changes in the information described in paragraph (b) of this section. If so, the Community Assessment must be updated and the decisions described in paragraph (c) of this section must be reconsidered.

* * * * *

(f) * * *

(1) Select an area or areas that are among those having the greatest need for Early Head Start or Head Start services as determined by the Community Assessment; and

* * * * *

(The information collection requirements contained in this section are approved by the Office of Management and Budget (OMB) under OMB Control number 0970–0124)

PART 1306—HEAD START STAFFING REQUIREMENTS AND PROGRAM OPTIONS

8. The authority citation for part 1306 is revised to read as follows:

Authority: 42 U.S.C. 9801 et seq.

9. Section 1306.1 is revised to read as follows:

§ 1306.1 Purpose and scope.

This Part sets forth requirements for Early Head Start and Head Start program staffing and program options that all Early Head Start and Head Start grantee and delegate agencies, with the exception of Parent Child Center programs, must meet. The exception for Parent Child Centers is for fiscal years 1995, 1996, and 1997 as consistent with section 645A(e)(2) of the Head Start Act, as amended. These requirements, including those pertaining to staffing patterns, the choice of the program options to be implemented and the acceptable ranges in the implementation of those options, have been developed to help maintain and improve the quality of Early Head Start and Head Start and to help promote lasting benefits to the children and families being served. These requirements are to be used in conjunction with the Head Start Program Performance Standards at 45 CFR Part 1304, as applicable.

10. Section 1306.20 is amended by redesignating paragraphs (a) through (e) as (b) through (f) and adding a new paragraph (a) to read as follows:

§ 1306.20 Program staffing patterns.

(a) Grantees must meet the requirements of 45 CFR 1304.52(g), Classroom staffing and home visitors, in addition to the requirements of this Section.

* * * * *

11. Section 1306.21 is revised to read as follows:

§ 1306.21 Staff qualification requirements.

Head Start programs must comply with section 648A of the Head Start Act and any subsequent amendments regarding the qualifications of classroom teachers.

12. Section 1306.30 is amended by revising paragraph (c) to read as follows:

§ 1306.30 Provisions of comprehensive child development services.

* * * * *

(c) The facilities used by Early Head Start and Head Start grantee and delegate agencies for regularly scheduled center-based and combination program option classroom activities or home-based group socialization activities must comply with State and local requirements concerning licensing. In cases where these licensing standards are less comprehensive or less stringent than the Head Start regulations, or where no State or local licensing standards are applicable, grantee and delegate agencies are, at a minimum, required to assure that their facilities are in compliance with the Head Start Program Performance Standards related to the safety of facilities found in 45 CFR 1304.53(a), Physical environment and facilities.

* * * * *

13. Section 1306.33 is amended by revising paragraph (c)(3) to read as follows:

§ 1306.33 Home-based program option.

* * * * *

(c) * * *

(3) Grantees must follow the nutrition requirements specified in 45 CFR 1304.23(b)(2) and provide appropriate snacks and meals to the children during group socialization activities.

PART 1308—HEAD START PROGRAM PERFORMANCE STANDARDS ON SERVICES FOR CHILDREN WITH DISABILITIES

14. The authority citation for Part 1308 continues to read as follows:

Authority: 42 U.S.C. 9801 et seq.

15. Section 1308.6 is amended by revising paragraph (b)(1) to read as follows:

§ 1308.6 Assessment of children.

* * * * *

(b) * * *

(1) Grantees must provide for developmental, hearing and vision screenings of all Early Head Start and Head Start children within 45 days of the child's entry into the program. This does not preclude starting screening in the spring, before program services begin in the fall.

* * * * *

[FR Doc. 96–28134 Filed 11–4–96; 8:45 am]

BILLING CODE 4184–01–P